

This Submission Form must be completed and attached to your submission.

DA No: N0317/16

The Interim General Manager
Northon Beaches Council
PO Box 882
MONA VALE NSW 1660

Name: R Gooding
Address: 79 Hillside Rd
Newport Beach NSW 2106
Phone: 9997-1446
Date: 16 August 2016

(Fax No: 9970 1200)

Proposed Development: Subdivision of 62 Hillside Road into 4 residential lots plus civil and landscaping works to 62 and 85 Hillside Road to facilitate the subdivision

At: 62 & 85 HILLSIDE ROAD NEWPORT NSW 2106

I have inspected the plans and related documents. I have considered them in the context of the relevant planning instruments or policies.

Yes No

I am willing to provide expert reports to supplement my comments should a conflict in opinion arise.

Yes No

I am willing to provide evidence to the Land and Environment Court if the application is appealed.

Yes No

In the interests of public transparency please note that your submission in its entirety will be available to the applicant or other interested persons on request and will also be made available on Council's internet site through Council's transparent Development Application Tracking process. You are encouraged, as is the applicant, to discuss with each other any matters that may be of concern.

COMMENTS: (You may use the space provided or attach a separate document).

Please see attached letter

Name: R Gooding Signature: R Gooding Date: 16/8/2016

Disclosure of Political Donations and Gifts (sec 147 EP&A Act 1979):

Please read the information enclosed concerning political donations and gifts disclosure and, if relevant, tick the box below and provide details of the donation or gift on the disclosure statement available on Council's website:

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R Gooding
79 Hillside Road
Newport Beach NSW 2106
16 August 2016

Mr Mark Ferguson
Interim General Manager
Northern Beaches Council
PO Box 882
MONA VALE NSW 1660

Re DA No: N0317/16

Proposed Development: *Subdivision of 62 Hillside Road into 4 residential lots plus civil and landscaping works to 62 and 85 Hillside Road to facilitate the subdivision*

Dear Mr Ferguson,

The 1.06 ha area affected by this proposed development is a unique environment containing a significant example of littoral rainforest which is integrated with nearby Attunga and Porters Reserves. As a neighbouring resident I am writing to oppose the proposed development at this site for the reasons outlined below.

Fauna and Flora

According to Pittwater Council, in NSW Littoral Rainforest makes up less than 1% of the total rainforest in the state. Littoral rainforest provides an essential habitat to a number of native animal and plants.

http://www.pittwater.nsw.gov.au/environment/native_plants/angered_ecological_communities/littoral_rainforest

This vegetation is a habitat for wildlife, vulnerable and threatened species, such as the Powerful Owl, the Grey Headed Flying Fox, the Little Batwing Bat, Eastern Bentwing Bat, as well as other birds and reptiles which frequent the area like the Lorikeets, the Whip birds, the Blue Wrens, the Magpies, the Eastern Water Dragon and frogs.

Furthermore, Littoral Rainforest in Sydney is considered as Endangered Ecological community on the *Schedules of the Threatened Species Conservation Act 1995*. This vegetation community is coming under increasing threat. The small strands have a high chance of becoming extinct in nature unless the factors threatening its survival cease to operate.

http://www.pittwater.nsw.gov.au/_data/assets/pdf_file/0008/16964/Littoral_Rainforest_restoration_in_PittwaterA4_factsheet.pdf

It should also be noted that the construction of the present driveway/road appears to have resulted in the destruction of Cabbage Tree Palms and many other varieties of trees. Along with other neighbours I have witnessed a massive amount of clay which is a main component of the soil on Hillside Road streaming down the road after it rains since this work commenced.

In addition a large number of trees appear to have been removed shortly after the 10/50 vegetation clearing code came into effect. In this regard I would like to point out that I attended the three-day Land and Environment Court (LEC) hearing in 2007 which considered an earlier development application for this site. During that hearing the barrister for the applicant indicated that the palms would be retained and relocated if that application was approved. However, this does not seem to have been a consideration in the recent apparent clearing of Cabbage Tree Palms and other endemic trees.

The Vegetation Management Plan report prepared by Cumberland Ecology states, "That at the margins of clearing area there will be increase of light penetration of the rainforest vegetation. This has potential to alter the structure of the community and may favour the growth of exotic weeds at the rainforest edges. However, for the majority of threatened fauna with potential to occur, slightly increased light penetrating at the margins of the rainforest is unlikely to result in the habitat being unsuitable for foraging."

However, any clearing for the proposed footprints would result in limiting the foraging for the Whip Bird which often frequents the area and many smaller birds like the Blue Wren and other small birds. These birds mainly frequent dense canopy for protection, foraging and as a habitat. This in itself would alter and change the fauna biodiversity of the Littoral Rainforest.

Furthermore, I have lived on Hillside Road for many years and have observed that the Bower Bird which is also highly mobile and the Echidnae were once prevalent and now no longer frequent the area.

The Grey Headed Flying Fox often frequents this area and can be heard at night, not only do they forage but also they pollinate flowering plants and spread seeds ready to germinate. Also, the Powerful Owl which has been seen by residents has suitable prey on the site which includes mice, possums and other mammals. These are just two examples of how vital this littoral rainforest is and how the fauna contribute to its complex biodiversity.

Vegetation Management Plans

The application relies to a great extent on a proposed Vegetation Management Plan which covers much of the planned subdivision. I would like to emphasize that this Vegetation Management Plan (VMP) is planned to last only for five years. This is a very short time frame after which the owners of the individual blocks can do whatever they like, including

planting exotic plants which have the potential to encroach onto the adjoining Attunga Reserve, as well as cutting down trees according to the 10/50 vegetation clearing code.

It appears that this VMP is a scaled-down modification of the offsets which were put forward at the Land and Environment Court during the hearing which rejected the previous DA which consisted of 7 dwellings and a subdivision into 8 blocks. The offset proposed was the clearing of weeds in Attunga Reserve in return of the approval of the DA.

This raises the matter of the letter which was sent to Mr R Major and other residents in relation to this present DA, which states, "As I am sure you are aware, there is a portion of littoral rainforest which is on our property and runs over onto Attunga Reserve. Currently large areas of the rainforest have been infiltrated by weeds. Weed control programs run at an extremely high cost and is not financially sustainable for one owner to cover the cost. As such, with the proposal, the costs would be spread between 4 parties and a Conservation Area to be created of the remaining rainforest on the subject property."

Below is an excerpt from an external consultant (Cumberland Ecology):

"If the development does not occur on the Subject Site, no conservation area will be made available and funding associated with the proposed development, earmarked to fund the management of this area under a VMP will be lost. The spread of 'transformer weeds' listed as a key threat to the long term survival of Littoral Rainforest (threatened species Scientific Committee, 2008) is likely to continue throughout the Subject Lands", Peter Roach, 8 June 2016.

As far as I know according to Council regulations, it is each land owner's responsibility to keep their property weed-free. For example, earlier this year residents on Hillside Road were given one month to weed and control the Cassia weed. The VMP as I have previously stated lasts for only three years which is hardly long-term protection of a special littoral rainforest. The implication of the applicant's letter is that while it is too costly for the current owner to keep his property weed-free he is prepared to undertake what appears to be extensive and expensive clearing in relation to the driveway construction and under the 10/50 vegetation clearing code.

I recall that Mr A Gallasso, who represented Pittwater Council at the Land and Environment Court during the 2007 hearing, indicated that the applicant did not appear to address the issue that his land adjoins Crown Land and did not appear to exercise any weed management on his property. The letter to Mr R Major seems to indicate a suggestion by the applicant that this practice will continue if the current DA is not approved.

Land stability

The DA notes that three of the four allotments will have average slopes well in excess of the 30% permitted in the 2014 Development Control Plan but argues that as the risk of "land

instability associated with the proposed development is considered typically acceptable" the proposal should be approved.

The area of Hillside Road containing the site is well-known for landslips. As recently as a couple of years ago several houses lost power as a result of a landslip above 60 Hillside Road. There was also another major landslip in 1999 on the lower half of Hillside Road that is before Number 19 which forced the occupants of one house to leave. The steep gradient of this slope is simply not conducive to having structures built on it which could easily destabilise it more.

Drainage and stormwater management

Interference in the natural creek would also cause interference with the littoral rainforest and could increase the potential for landslips to occur. This creek has had various descriptions over the years and has been regarded as an intermittent water course. However, the creek and creek line with its surrounding trees also plays a vital role as various fauna use it including the eastern water dragon, frogs and a number of birds. Also, weed killers which are proposed to be used: namely glyphosate which could be detrimental to the fauna and flora in the area and especially around the creek. Any disruption to this creek would definitely change the biodiversity of the littoral rainforest.

Parking and car access

The development would in all probability mean that there would be at least eight and probably 10 to 12 additional cars or more using Hillside Road which is already narrow and congested. Furthermore these cars in entering and exiting the property would have to negotiate the current very narrow turn circle, potentially causing a potentially hazardous situation for turning vehicles to contend with.

This site and the adjoining Attunga Reserve acts as a natural amphitheatre amplifying not only the many bird calls which can be heard from the reserve and the gully below but also the sound of cars and trucks which presently use the road. In addition to the 8 to 12 vehicles belonging to residents of the proposed development, visitors' cars and trade and delivery trucks and vans are likely to add to noise pollution in this quiet neighbourhood. This would affect not only prospective residents of the development but also all the residents on Hillside Road and Kanimbla Avenue.

Building envelopes and impact on visual amenity

Even though there are detailed plans showing property boundaries and the footprints of the houses, there is no indication of the proposed height or number of storeys of the planned dwellings. The last DA proposed dwellings of two or three stories high but as Commissioner Hoffman indicated in the 2007 LEC hearing this could easily increase to four storeys once the planned garages were added.

This means that the present plans which only show the footprints do not convey the potential visual impact. The site is high and can clearly be seen from Hillside and Kanimbla Roads also from the other side of Newport therefore, any proposed constructions will have considerable impact on views from all these surrounding locations,

Recommendation for an acceptable maximum level of development

The acquisition of this site by council and its long-term protection would be the ideal outcome (see conclusion below), but if this is not possible the maximum acceptable development would be the construction of a new dwelling on the site of the existing fibro cottage on no. 62 Hillside Road (Lot 1) and the redevelopment or replacement with a new dwelling of the house on no. 85 Hillside Road (Lot 22).

These houses should be built in conformity with relevant planning controls and in a way that minimises environmental and visual impacts. Any new development should also be accompanied by a Vegetation Management Plan for these lots and Lot 21 to be kept in place for perpetuity. There should be no further subdivision or development and a maximum of two dwellings permitted across these three lots (1, 21 and 22). The rest of the combined site should be preserved and conserved, thereby supporting the restoration of the littoral forest to bring this back to its precious pristine state.

Conclusion

Council is strongly urged to preserve this site from any form of development by rejecting this application to retain the beautiful littoral rainforest this site contains and to restore it back to its pristine state with the support of the community.

It is really lovely to hear the various bird songs from this site which include the distinctive Whip Bird, Magpies, Lorikeets, the Red Wattle Bird Honey Eater and the melodious Butcher Bird. The Crown to Sea walk which passes nearby provides views of this littoral rainforest and is an enjoyable walk as you pass through a diversity of flora terrains.

It would be in the best interests of not only the residents of Hillside and Kanimbla Roads but also Newport in general if this precious parcel of land was acquired by Council and turned into a reserve. In addition to these residents there are many animals, mammals, birds reptiles etc. who regard this littoral rainforest both as their source of food and their home. I strongly recommend that council purchase this site to be made into a separate reserve or added to the existing Attunga Reserve.

Yours sincerely



Rosalyn Gooding