Terrestrial Biodiversity Report

for a

Alterations and Additions

At

Little Manly Beach Kiosk

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Revision No:	Draft
File Number:	LMBTBR01

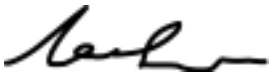
Required Licences

NSW Department of Primary Industries, Animal Research Authority: 12/4838

Office of Environment and Heritage, BioNet Sensitive Species Data Licence: CON97043

Office of Environment and Heritage, BAM Assessor: BAAS 1708

Approved for release by Director:



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Approval Date

22 May 2020

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1 Introduction

1.1 Background

This report identifies the ecological values and constraints at the location of the Kiosk at Little Manly Beach, Manly, then assesses the likely impact of a proposed development on the terrestrial flora, fauna and ecological communities, in particular, the Endangered Long-nosed Bandicoot population on North Head and the Endangered population of Little Penguin at Manly. Potential impacts and Key Threatening Processes to the Endangered Long-nosed Bandicoot and Little Penguin populations that have been identified include loss of habitat and change in access to habitat. This report also makes recommendations on ways to avoid or reduce impacts caused by the development.

1.2 Legislation Addressed by this Report

This section describes the Local, State and Federal legislation that provide the legal framework for approval of development and the protection and conservation of native flora and fauna that are relevant to this site.

1.2.1 NSW Environment Planning and Assessment Act 1979, EP&A Act

The NSW Environment Planning and Assessment Act 1979 is the framework for approval of development in NSW. This proposal will be assessed under Part 4 of the EP&A Act which requires the determining authority (usually Council) to not approve local development (Development Applications, DA's) without considering the heads of consideration in section 4.15 which requires the assessment of relevant legislation (SEPP, LEPs, DCPs ect.)(4.15a), the environmental impact of the proposal (4.15b) and the suitability of the site for development (4.15c). Section 4 of this report addresses the BC Act and the relevant heads of consideration.

1.2.2 Biodiversity Conservation Act 2016

Section 7.2 of the Biodiversity Conservation Act requires that all local developments (Development Applications DAs, Part 4 EP&A Act):

- Implement the core purpose of the Act is a hierarchy to "Avoid" and "Minimise" impacts; only then can "Offsets" be used for any residual impacts.
- Be assessed to determine whether they trigger the BOS Threshold Test specified in the Biodiversity Conservation Regulation 2017, which has two parts; the area of native vegetation that the proposal will impact and a check of whether the impact is within an area of mapped "biodiversity" on the Biodiversity values map; and
- Be assessed by a qualified ecologist to determine if there may be a positive a 5-Part Test of Significance as outlined in part 7.3 of the BC Act for each Threatened species or ecological community (listed in the schedules of the BC Act) or their habitats (listed in the schedules of the BC Act) that may occur on the site.
- Be assessed to determine if the proposal may impact on an Area of Outstanding Biodiversity Value (AOBV).

Developments that trigger the Threshold Test or have a positive 5-Part Test of Significance or impact on an AOBV need to enter the Biodiversity Offset Scheme (BOS) and require the Biodiversity Assessment Method (BAM) to be applied and include a Biodiversity Development Assessment Report (BDAR) with the DA application. The proposal also needs to be assessed to determine if it may result in a Serious and Irreversible Impact (SAII).

If a development application does not meet the threshold or any other triggers, then a smaller report is still required to address the "heads of consideration" (section 4.15 of the EP&A Act), 5-part Test of Significance as required by the Manly DCP, SEPPs and Local Council's LEP/DCP requirements.

The Threshold Test, 5-Part Test, assessment of AOBV, heads of consideration, SEPP LEP/DCP requirements are all assessed in section 4 of this report.

1.2.3 Manly Local Environment Plan, LEP

The Manly (Northern Beaches Council) Local Environment Plan's (2013) 'Terrestrial Biodiversity Map' identifies this property as having high terrestrial biodiversity value. Development applications in the mapped area require consideration of Clause 6.5 (3) and (4) 'Terrestrial Biodiversity' (Manly LEP 2013). Development proposals need to be consistent with the objectives of this Clause and include appropriate measures to avoid, minimise or mitigate possible impacts of the development on biodiversity.

Extract from MLEP 2013

6.5 Terrestrial biodiversity

(1) The objective of this clause is to maintain terrestrial biodiversity by:

(a) protecting native fauna and flora, and

(b) protecting the ecological processes necessary for their continued existence, and

(c) encouraging the conservation and recovery of native fauna and flora and their habitats.

(2) This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised - the development will be managed to mitigate that impact.

These sections of the Manly LEP are addressed within this report.

1.2.4 Manly Development Control Plan, DCP

Manly Development Control Plan 2013 Section 2.1.15 'Threatened Flora and Fauna Assessment of Significance Report, including the Long-nosed Bandicoot, and Little Penguins' requires the assessment of the significance of impact on threatened species, populations or ecological communities or their habitats.

Manly DCP 2013

DCP extract 2.1.15 'Threatened Flora and Fauna Assessment of Significance Report'

Objective 1) To ensure the assessment of any significant effect on threatened species, populations or ecological communities or their habitats (as listed in the Biodiversity Conservation Act) in accordance with Section 5A of the Environmental Planning and Assessment Act 1979 (now superseded by section 7.3 of the Biodiversity Conservation Act 2016).

DCP extract 5.4.2 'Threatened Species and Critical Habitat'

Any development of land with known habitat for threatened species must consider the likely impacts of the development and whether further assessment needs to be undertaken by a Species Impact Statement.

DCP Extract - Schedule 1 - Map D - Areas where Assessment of Significance is required (for Little Penguins and/or Long Nosed Bandicoots)

This report includes a Test of Significance (5-part test) for the Endangered Long-nosed Bandicoot population at North Head and Endangered population of Little Penguins at Manly and other Threatened Species, Populations or Endangered Ecological Communities that may

be impacted by the proposal. The Impact Assessment section of this report addresses these clauses.

1.2.5 State Environmental Planning Policies and Sydney Regional Environmental Plans

The SEPPs and SREPs which are relevant to Northern Beaches LGA and which may be relevant to this proposal are SEPP 19 Bushland in Urban Areas and Sydney Regional Environmental Plan (Sydney Harbour Catchment) (SREP SHC) 2005 (which amends SEPP No 56 Sydney Harbour Foreshores and Tributaries).

State Environmental Planning Policy No 19—Bushland in Urban Areas

State Environmental Planning Policy 19 – Bushland in Urban Areas (SEPP 19) is an NSW government policy that aims to protect and preserve bushland within urban areas. The policy applies to naturally vegetated land adjacent to Council reserves.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The plan aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways. It establishes planning principles and controls and consolidates and replaces the following instruments: - Sydney Regional Environmental Plan No. 22 - Parramatta River (SREP 22); - Sydney Regional Environmental Plan No. 23 - Sydney and Middle Harbour (SREP 23); and amends State Environmental Planning Policy No. 56 Sydney Harbour Foreshores and Tributaries (SEPP 56).

The area to the south of the heavy black boundary line on the figure below is within the Foreshores and Waterways Area and includes the whole of North Head, St Patrick's Estate, Manly Boatshed and Manly Wharf. See image below. The whole of Manly Cove is zoned as W2 Environment Protection Zone. Wetlands are mapped along the majority of Manly Coves' foreshore.

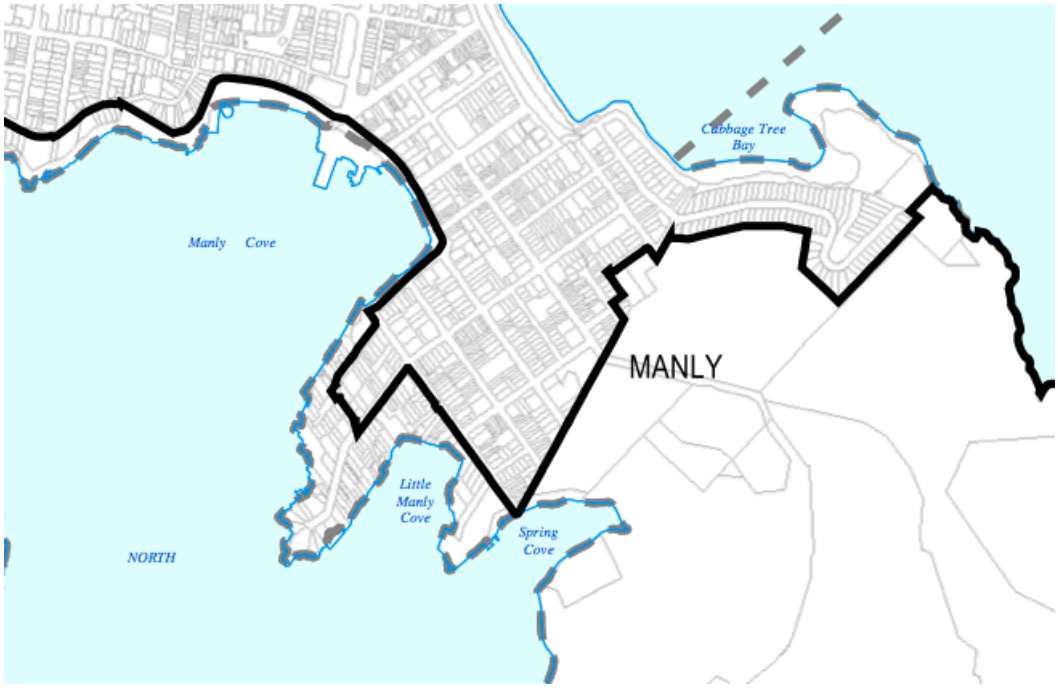

Image: Strategic Foreshores and Waterways Area – Part of Sheet 4 SREP SHC

The ecological Aim of the SREP is to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.

The Impact Assessment section of this report assesses the specific ecological matters that are to be considered. The Impact Assessment section of this report also addresses the objectives of the W2 zoning.

Coastal Management SEPP 2018

The new SEPP Coastal Management 2018 combines SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) and clause 5.5 of the Standard Instrument into one integrated policy. These policies have been repealed. This SEPP defines four coastal management areas and specifies the assessment of development within these management areas.

The Coastal Management SEPP also maps Coastal Wetlands and Littoral Rainforest (EEC) and areas within proximity of Coastal Wetland and Littoral Rainforest and includes controls for development within those areas.

1.2.6 Federal Environment Protection and Biodiversity Conservation Act 1999, EPBC Act

There is currently no memorandum of understanding agreement between the State and Federal government regarding the need to apply the EPBC Act 1999.

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) will need detailed assessment if the proposal is considered likely to have an impact on a 'Matter of National Environmental Significance (MNES), thus providing a trigger for referral of the proposal to the Department of the Environment and Water Resources. Matters of national environmental significance identified in the Act are; world heritage properties; national heritage places; RAMSAR wetlands; nationally threatened species and communities; migratory species protected under international agreements; the Commonwealth marine environment; and nuclear actions.

Section 4 of this report addresses this requirement.

1.3 General Definitions

5-Part Test of Significance (5-Part Test) - Assessment under Section 7.3 of the BC Act to determine whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats. The minister has provided a guide under 7.3(2) titled Threatened Species Assessment Guidelines.

BC Act - NSW Biodiversity Conservation Act 2016 contains the lists of threatened species, the definitions of the threatened ecological communities, the 5-part Test of Significance and the Biodiversity Offset Scheme (BOS). There are associated Biodiversity Conservation regulations which refers to the BAM.

Clearing – clearing of native vegetation including; cutting down, felling, uprooting, thinning or otherwise removing native vegetation, killing destroying, poisoning, ringbarking or burning native vegetation and includes and includes establishment and maintenance of bushfire protection Asset Protection Zones (APZ) inner and outer zones.

Direct Impacts - are impacts that directly affect habitat, ecosystems and individuals. They include, but are not limited to, death, trampling, poisoning of the animal/plant itself and the removal of vegetation and suitable habitat. When applying each factor, consideration must be given to all of the likely direct impacts of the proposed activity or development during construction. As defined by the 2018 Threatened Species Assessment Guidelines.

DPI – NSW government of Department of Primary Industries

EPA Act (EP&A Act) – NSW Environment Planning and Assessment Act 1979, controls development in NSW, includes the requirement to consider SEPPs, LEPs, DCPs, BC Act 2016.

EPBC Act – Federal Environment Protection and Biodiversity Conservation Act 1999.

Indirect Impacts - occur when project-related activities affect species, populations or ecological communities in a manner other than direct loss. Indirect impacts can include loss of individuals through starvation, exposure, predation by domestic and/or feral animals, loss of breeding opportunities, loss of shade/shelter, deleterious hydrological changes, increased soil salinity, erosion, inhibition of nitrogen fixation, weed invasion, fertiliser drift, or increased human activity within or directly adjacent to sensitive habitat areas. Indirect impacts may occur after construction during the life of the development, e.g. escape of garden plants, excess nutrients and changes in fire frequency and grazing. As with direct impacts, consideration must be given, to all of the likely indirect impacts of the proposed activity or development (2006 DECC Assessment of Significance Guidelines)

LEP – Local Environment Plan, a local planning instrument for each Council area.

Native Vegetation - is defined in the LLS Act as any plants native to NSW including trees, understory plants or groundcover plants including wetland. Marine vegetation is protected by the Fisheries Act.

OEH – NSW Office of Environment and Heritage, formerly NPWS, DEC, DECC and DECCW. Government organisation responsible for the conservation of native flora and fauna.

Property – The lot(s) that are the subject of the proposal. In this report, this is the same as the Study Area, the Subject Site and "site".

Proposal – The works/actions that are proposed on the property that is the subject of the development application.

Protected Fauna - refers to any native bird, mammal, reptile or frog in NSW.

Site - In this report this is the same as the Study Area and the Subject Site and the property.

Study Area - means the subject site and any additional areas which are likely to be affected by the proposal, either directly or indirectly. The study area should extend as far as is necessary to take all potential impacts into account. In this report, this is the same as the Subject Site, the property and "site".

Subject Site - means the area directly affected by the proposal. In this report, this is the same as the Study Area, the property and "site".

Threatened Species - refers to those species listed in the schedules of the Biodiversity Conservation Act 2016 as "Critically Endangered ", "Endangered" or "Vulnerable".

For definitions that are relevant to the Assessment of Significant test see the Appendices.

1.4 Assumptions and Limitations

- This document only assesses the impacts of the proposal described in this report and shown on Map 1 and the cited plans.
- This report does not take into account the cumulative impact of other developments on this property or on adjacent land.
- This report does not include assessment of soil suitability or European/Aboriginal heritage.

- It can never be proven that other Threatened Species have not, do not or will not use the site as habitat. The conclusions drawn in this report are a result of testing, observation and experience.
- This report describes the habitat and species of the site at the time of the field survey. Vegetation, habitat and legislation will change over time and therefore the findings of this report are only relevant for 6 months.
- This report should be read in its entirety and no part should be taken out of context.
- No responsibility is accepted for use of any part of this report in any other context or for any other purpose or by third parties.

1.5 Endangered Bandicoot Population at North Head

The main species of interest on this site is the Long-nosed Bandicoot, *Perameles nasuta*, (Geoffrey 1804) and in particular, the Endangered population at North Head, Manly, which is known to occur in the vicinity of the Subject Site.

The Final Determination (BC Act Scientific Committee 1997) for the listing of this population in the schedules of the Biodiversity Conservation Act described the population as:

> *"P. nasuta was once widespread in the Sydney region but many formerly recorded populations have become extinct. The North Head population is now isolated and disjunct."*
>
> *"…the North Head population of P. nasuta is in immediate danger of extinction."*
>
> *"…the North Head P. nasuta population is of significant conservation value on the grounds that it is:*
>
> - *A disjunct population*
> - *One of the few surviving populations within the Sydney region*
> - *A population which has been the subject of a number of scientific studies, and is thus an important reference population*
> - *Accorded considerable value by the local community, and thus serves to promote conservation more generally"*

The Office of Environment and Heritage has identified 25 priority actions to help recover the Long-nosed Bandicoot population on North Head in New South Wales (as of July 2013). These priority actions relate to OEH, Northern Beaches Council and other determining authorities developing, implementing and continuing the fox, feral cat and rabbit control program, weed control program, monitoring program, community awareness program, collecting mortality data, finalising and reviewing Long-nosed Bandicoot Recovery Plan, and Sydney Harbour National Park Fire Management Strategy and Plan of Management.

1.5.1 Long-nosed Bandicoot (Perameles nasuta) Biology

Description: The Long-nosed Bandicoot (*Perameles nasuta*) is a solitary nocturnal marsupial that grows to a size of between 850 and 1100 g, 310 to 425 mm in head and body length, and with a tail length of 120 to 155 mm (Stoddart 1995). The males are larger than females. These bandicoots characteristically dark, greyish-brown above and creamy white below. The forefeet and upper surfaces of the hind feet are also creamy white (NPWS 2000b). The muzzle is long and pointed and the ears are markedly larger and more pointed than short-

nosed bandicoots of the genus Isoodon, such as the other bandicoot that lives in Sydney, the Southern Brown Bandicoot (Stoddart 1995).

Distribution: Long-nosed Bandicoots are locally common along the east coast of Australia and adjacent mountains from north-eastern Queensland to south-western Victoria. This Endangered population is restricted to the relatively isolated area of habitat on North Head in the Manly Local Government Area, south of Addison Road (NSW Scientific Committee 2003). See above the DCP extract, Schedule 1 - Map D - Areas where Assessment (test) of Significance is required. There is another Threatened population in the inner western part of Sydney.

Habitat: At North Head, Long-nosed Bandicoots inhabit, to varying extents, all of the habitat types available including woodlands, scrub, heath open areas and the urban landscape. Recent research indicates that urban areas are important for the population and that there are individuals who live their entire lives within the urban area. Long-nosed Bandicoots prefer sites with sandy soils, as well as with low undergrowth and leaf litter cover and does not have a particular preference for proportion of canopy cover (Chambers & Dickman 2002). This species depends on a mosaic of vegetation types at a landscape level, including feeding grounds in patches of moist, soft soil located close to shelter with an abundance of invertebrates (Scott et al. 1999). These types of habitat can be found in both bushland and urban environments including native vegetation and residential gardens. Resting and nesting habitat is low, dense vegetation or litter where a bandicoot can take shelter in during the day. Bandicoot diggings are more abundant in areas of moist, soft soils close to cover (Hughes and Banks 2010).

Individuals build diurnal nests that are typically made in a shallow hole or depression on ground surface and are lined with leaf litter and dry grasses. The entrance to each nest is closed when occupied making them generally difficult to locate. Nests on North Head have been found in a variety of habitat types, such as at the base of large trees and within tall grasses including residential backyards (Scott 1995; Scott *et al*. 1999). Long-nosed Bandicoots typically have more than 1 nest that is in regular use within their territory (Chambers & Dickman 2002). It is expected that bandicoots in the wild may live up to 2 to 2.5 years.

Home Range Size: Home range size of an individual Long-nosed Bandicoots have been recorded at 1.3ha (+-0.2 S.E. 50%KDE) for females (n=5) and 1.1ha (50% KDE) for a male. Animals tended to maintain exclusive and relatively stable core home ranges, although overlap of non-homes ranges was common (Hope 2012).

Diet: Long-nosed Bandicoots feed on invertebrates, plants, tubers, fungi and vertebrates (Menkhorst & Knight 2004, Scott et al. 1999, Claridge 1993). Invertebrates mostly include insects from the orders Coleoptera and Hymenoptera (> 80%). Plants preferred are mainly the leaves and stems of monocotyledons (>76%). Fungi are consumed in a high proportion (> 63%), mostly those hypogeal from the family Zygomicetes, in particular the species *Glomus fueglanum*. Vertebrates, even though contribute little to bandicoots' diet include skinks, birds and sometimes eggs of the Eastern Water Dragon (Scott et al. 1999).

Breeding: At North Head, Long-nosed Bandicoots were recorded breeding from June to March (Scott 1995), however mating can occur throughout the year. The average recorded litter size for the North Head population is 2.3 babies (Stoddart 1995). In productive years, females may have up to 4 litters.

Litters are typically 2-3 (>76%), with the young weaned at about 7 weeks and reaching maturity at 20 weeks. Females tend to overlap their home ranges (i.e., 1.7 ha) throughout

the year, as well as to reduce their size during the breeding season. By contrast, home ranges of males (i.e., 4.4 ha) only overlap during the breeding season, as they also enlarge their home ranges (Scott et al. 1999, Menkhorst & Knight 2004).

1.5.2 Population Viability

There have been many studies on this population over the last 20 years including; micro-chipping, radio tracking, extensive trapping, diet analysis, population viability estimation (Banks, 2000; Banks, 2004; Chambers and Dickman, 2002; Hughes and Banks, 2006; Hughes and Banks, 2010; Lenehan and Banks, 2004; Scott, Hume, and Dickman, 1999). There is ongoing biannual monitoring program by the Office of Environment and Heritage (OEH; formerly DECCW, DECC and NPWS) in collaboration with Manly Council and Sydney University.

Every two years there is a more extensive Long-nosed Bandicoot trapping survey conducted in the bushland part of North Head. This survey does not include the urban environment part of North Head, which is now known to have permanent bandicoot residence. These areas are likely to be the same population. Population viability estimates within the urban environment most recently occurring in November 2012 and March 2013. This urban study utilised 14 transects across Eastern Hill and used the same methods as the current study by NPWS within the bushland habitat on North Head (Hughes and Banks, 2010).

In May 2015, a total of 152 individual Long-nosed Bandicoots were trapped at North Head, compared to 99 in 2014, and 71 in 2010. The sex ratio of the bushland population is relatively even. Under current conditions, the North Head Long-nosed Bandicoot population has a 62% chance of persisting after 50 years. This figure has dropped from 80% in since the previous PVA, due to the slightly higher sex specific adult mortality rates used in the current PVA's (Price & Banks, 2015). The latest PVA analysis determined that the population is stable and has been for the last few years. It has been calculated that only a small loss to the population could cause the local population to become extinct.

1.5.3 Previous Years Survey Results for the Bushland Area of Habitat

See below text results from the Long-Nosed Bandicoot Urban Monitoring Program (Cumberland Ecology) 2016.

- A total of 34 (14 males and 19 females, adults 72%) individual Long-nosed Bandicoots were trapped in the urban area of Manly, in May 2016, compared with 31 (19 males and 12 females, 75% adult) in March 2013.
- Four of the females captured had 1-2 young in their pouch.
- 25% of the total population on North Head are living within the urban environment with 28 – 45 individuals in the **urban** environment compared with 120 - 140 individuals in the **bushland** environment (NPWS).
- There are individuals with their home range within the urban environment
- Individuals were trapped across Eastern Hill and down to Ashburner Street.

1.5.4 Threats to the North Head Population

The major threats to this population are thought to be vehicle traffic, loss of habitat through development and, to a lesser degree, predation by dogs, cats and foxes. Other threats include inbreeding depression, loss of genetic variation, the risk of catastrophic events (such as bushfires or disease), inappropriate fire regimes, clearing of native vegetation and invasion of native plant communities by Bitou Bush. Bandicoots are also susceptible to infection by cats carrying the disease toxoplasmosis. If urban developments keep reducing the area of accessible habitat available it is likely to result in population

decrease and the likelihood of the population becoming extinct in the near future (i.e., 20 years) range between 31% and 46%.

The removal of habitat or prevention of access to habitat on a site may constitute a significant impact to the conservation of the threatened population and may require modifications to the development so there is no significant impact or a more extensive assessment in the form of a Species Impact Statement, a Section 91 licence or modification of the proposal.

1.6 Endangered Little Penguin Species (Population) at Manly

The population of penguins at Manly is the only known population of little penguins on the mainland of NSW. In January 1997, the NSW Scientific Committee decided to list this colony as an Endangered Population by placing it in Schedule 1 of the *Threatened Species Conservation Act* of 1995 (superseded by the *Biodiversity Conservation Act 2016* (BC Act). The NPW Act and NPW regulations specify restrictions, fines and potential gaol sentences on the public regarding penguins, their habitat and population. The BC Act regulates works and development that may impact on penguins.

The Final Determination (BC Act Scientific Committee 2000) for the listing of this population in the schedules of the *Threatened Species Conservation Act* (superseded by the *Biodiversity Conservation Act 2016*) described the population as:

> *"The Little Penguin colony in the Manly area was formerly more extensive, with nesting burrows occurring at Manly Point, Spring Cove, Store Beach and Cabbage Tree Bay."*
>
> *"The decline of Little Penguin populations in the Sydney region has been attributed to habitat destruction and predation from domestic and introduced animals… Other possible threats include habitat loss from development and disturbance, reduced food, oil spills, disturbance by jet skis and powerboats, and restriction of access to nesting habitat by haul netting procedures."*
>
> *"The population is of significance conservation value given its disjunction form other populations and its occurrence in Sydney Harbour."*
>
> *"…. Despite the population being larger and more variable than previously thought, the numbers of Little Penguins in the population at Manly Point Area have been reduced to such a critical level that the population is in immediate danger of extinction…."*

A Recovery plan titled "Endangered population of Little Penguins (*Eudyptula minor*) at Manly Recovery Plan", dated October 2000, has been approved for this population. This document is a legal document and is a requirement under the BC Act. This plan summarises the biology of the species, the history of the Manly population and outlines management actions to be taken for the conservation of the population.

The BC Act requires that government agencies must not undertake actions that are inconsistent with a recovery plan. This includes NPWS, Northern Beaches Council, EPA, NSW Fisheries and Waterways Authority. Actions include granting consent for developments or activities that are contrary to the recovery plan.

The objectives of the Recovery Plan are to maintain and enhance the population to a position of security in nature and have the population de listed as an endangered population. More specific aims include "increasing the limits of potential habitat" and "ensuring the protection of the Little Penguin population at Manly and its habitat in the long term".

1.6.1 Little Penguin (Eudyptula minor) Biology

Description: Little Penguins (*Eudyptula minor*) are the smallest of all the penguins standing at only 30-35 cm high and weighing approximately 1kg when fully grown (NPWS 2000). The upper body and flippers are slate blue or blue-grey in colour, with a white underside and throat. The bill is black, the feet are pale pink and the eyes are a silvery-grey. The males are slightly larger than the females and have a deeper bill and larger head.

Size: 40-45 cm.

Weight: ≈1000 g.

Taxonomic status: with 6 subspecies recognised for the Little Penguin, the last taxonomic review conducted by Christides & Boles (2008) suggests the recognition of a single species within the genus.

Distribution: Little penguins are found along the southern coasts of Australia, from near Perth in Western Australia to around Coffs Harbour in northern NSW, including Tasmania. They also occur in New Zealand (Pizzey & Knight 2003). Originally, little penguins were fairly common on the Australian mainland, but these days their colonies are generally restricted to offshore islands. The population at Manly occurs along 2.8 km and represents the only mainland colony along the coast of New South Wales (Priddel et al. 2008).

Habitat: The Little Penguin feeds mainly in inshore waters around the coast and breeding islands, and out to the continental shelf. Most breeding pairs live in colonies, although some nest on their own. The shorelines where colonies are established include sand dunes with diggable soils, and rocky shores with vertical cliffs providing ledges, crevices and caves (Priddel et al. 2008, Marchant & Higgins 1990). In the Manly foreshore, Little Penguins live mostly along the rocky shores, using man-made structures as well, such as garages, gardens, upturned boats, stairs and woodpiles (NPWS 2000).

Diet: The diet of the Little Penguin varies seasonally and from year to year and also depends on the geographical location of the colony (Chiaradia et al. 2003, Cullen et al. 1992). The diet consists mainly of small school fish (e. g., Pilchard; *Sardinops sagax*, Barracouta; *Thyrsites atum*), and less importantly cephalopods (e. g., Gould's Squid; *Nototodarus gouldii*, Squid; *Loliolus noctiluca*) and krill (*Nyctiphanes australis*) (Chiaradia et al. 2003). Adult penguins forage for food at sea, mostly from dawn to an hour before dusk (Weavers 1992). They return to land when light conditions have decreased suitable fishing conditions, and predator and heat stress avoidance have increased (Klomp & Wooller 1991). Although several birds may pursue the same shoal, they feed singly, not cooperatively (Norman 1992, Schulz 1987). The duration of foraging trips and the distances travelled vary according to season. During the breeding season foraging trips are shorter and close to the colony; whereas in the non-breeding season trips are longer and further away (Weavers 1992).

Breeding: the breeding season varies in different parts of the country with some populations being winter breeders (SA and WA populations) and others summer breeders (VIC, TAS, NSW and NZ populations) (Marchant & Higgins 1990). Most of the birds have the

same mate for life, but a small percentage (<25%) of them may change their mate from year to year. In the easternmost populations, the first clutches are laid as early as July and as late as October depending on inter-annual variation. The nest site is typically a burrow or shelter, although nests under dense vegetation are common where there is competition for burrows (Reilly & Cullen 1981). Little Penguins at Manly nest almost always in rock cavities, rather than in burrows (Priddel et al. 2008). Generally, two white eggs are laid two or three days apart, but both hatch together after about 36 days. Tending of the youngsters is shared by the parents. Just a few days after the chick's hatch, the adults alternate daily, with one parent guarding the nest and the other foraging at sea. After about two weeks, both parents go to sea each day, returning in the evening or even staying away for several days. The adults attend to the chicks until they fledge at about 9 weeks of age, which usually coincides with August. It is not uncommon for adults to raise two sets of chicks so there are chicks in the colonies until February (Reilly & Cullen 1981, Fortescue 1995, Chiaradia & Kerry 1999, DECC 2007, 2008). However, breeding success is largely determined by food availability and in seasons with low food availability very few chicks may survive (Hobday 1992, Cullen et al. 1992). For instance, the population at Manly presents some of the highest values of percentage of double breeding pairs in Australia. This has been concomitant with an elevated production of fledglings in comparison to any other Australian colony. The small size of the colony has been proposed as a possible explanation to these figures, considering reduced intraspecific competition for food resources (Priddel et al. 2008).

Moulting: following breeding the adult penguins go through the moulting season, which occurs between February and April at Manly (L. O'Neill pers. comm.). During moulting all the feathers are shed and replaced over an average period of two weeks. Whilst moulting the feathers are not waterproof and the birds need to stay on land, as they can die in the water due to hypothermia. Because penguins cannot feed during the moult they feed intensively prior to it storing body fat. This strategy prepares them to afford the high energy expenditure associated with moulting. After the entire plumage has been replaced, penguins return to the ocean to feed before breeding commences again (Reilly & Cullen 1983).

Threats: Little Penguins are threatened by a range of human-related activities. Colonies of Little Penguins have declined or disappeared in breeding areas altered by grazing or erosion. Other threats include oil pollution, discarded plastic products and vegetation degradation reducing cover and shade. Feral animals are a considerable threat. For example, rabbits have changed island habitats until these are unsuitable for penguins, and predators, particularly foxes, cats and dogs, kill many birds (Norman et al. 1992, Harrigan 1992, Reilly 1977, Stevenson & Woehler 2007). In 2015 foxes killed 26 penguins, such events may cause sudden extinction of the local population, however loss of suitable breeding habitat and over-heating are likely to be more important long-term threats. This population of Little Penguin has been declared as Endangered by the Department of Environment and Climate Change (NSW Scientific Committee 1997b).

1.6.2 Threats to the Manly Population

Predation by foxes and dogs, overheating of nests and the loss of nesting and roosting habitat is a major cause for the population decline and threat to the survival of the population. The main cause of the loss of habitat has been the urban development landscaping works at Manly Point and at Little Manly Point. Little Penguins often walk and climb several hundred metres to nest. This means that they are often found around the houses on Addison Road and Oyama Street.

They occur in a small area of habitat that is mostly privately owned. If this population is to survive or recover there needs to be appropriate management of the areas where they occur and an increase in the amount of suitable habitat for nesting and roosting.

1.6.3 Population Viability

The breeding success of the Little Penguins at Manly is monitored annually, with fortnightly inspections of all known burrows and nests between July and January. The rate of breeding success remained fairly steady over the twelve-year period, with between 46 and 70 breeding pairs. The actual size of the breeding population is likely to be larger than this as it is suspected that this represents only around 75% of the population. Breeding activity is high. The 2013-14 breeding season was a particularly good year with 70 breeding pairs counted, and 174 eggs laid and 146 fledging's counted.

In June 2015, foxes are believed to be responsible for the deaths of twenty-six Little Penguins over a two-week period. Only ten of the Little Penguins that were killed were individuals from the known breeding pairs, with the other sixteen either new birds or part of the colony that nest in the hidden nooks along the two kilometre stretch of coastline they inhabit around Manly (*pers. comm.* Mel Tyas, OEH 2015).

In the 2016/17 breeding season the colony at Manly has been estimated at 41 breeding pairs, which was slightly higher than the previous year but considerably lower than average. The total number of eggs laid for the 2016/17 season was 103, which is below the mean of the most recent five-year period. A total of 79 fledglings were counted for the season, which is well below most other parameters measured. The breeding success in the 2016/17 season is likely to have been impacted by the losses in the 2015/16 season as the population is still recovering (OEH, 2017).

In the (2018/2019) season 28 breeding pairs were recorded (Manly Daily 2019). These results are considerably lower than all previously surveyed years.

These figures have to be considered as preliminary, because the preference of Little Penguins to nest in rocks at Manly precludes the detection of all active breeding individuals (Priddel et al. 2008).

1.7 The Study Site

The Study Site is the kiosk (Ripples) at Little Manly Beach and the habitat surrounding the kiosk. The kiosk is located within lot 1 DP 1159168 and Lot 1 DP 1129384. The Study Site has an area of approximately 400m^2 in size.

The Study Site includes the existing kiosk, that has small building with a kitchen, public toilets an outdoor seating area and the surrounding area. There are outdoor showers on the western side of the building. Surrounding the building are mown lawns and a dirt slope with sparse weedy vegetation behind a concrete block retaining wall. The Study Site is located on the elevated grassy area behind Little Manly Beach. The beach, sea pool and harbour are less than 10m south of the Site. The rocky foreshore is located 44m south-east and 130m south-west of the kiosk.

See Map 1 for plans showing the existing site, habitat and access.

There are areas of urban habitat surrounding the site to the north, and extensive areas of bushland reserve on the adjacent Little Manly Point Park is within 100m east of the Site and on North Head which is mostly Sydney Harbour National Park and Sydney Harbour Federation Trust land to the east of the Site.

The geographic co-ordinates of the site are -33.806519° S and 151.287388° E.

1.8 The Proposed Development

The development addressed in this report already exists partly (recently constructed) and this DA is seeking a partly retrospective approval.

This report addresses a DA for:

- Construction of a new refrigeration room and bin storage area at the rear (northern side) of the existing kiosk building.
- New concrete pathway and bin access to new storage area.
- Landscaping around the new pathway
- Demolition of the awning, blinds and a small section of the western side of the building.
- Extension of the western side of the kiosk building to create a new takeaway area.

The existing structures and proposal is shown on Map 1.

The Development Application is a retrospective DA as some of the proposal works have already been undertaken, however the plans also show additional works that have not been done yet. This report assesses the impact of the works as shown on the plans listed below and shown on Map 1 and is assesses on the ecological values as they were prior to any of the works were undertaken.

For further information on locations, extent of the development and details of the proposal, see Map 1.

The plans and documents used for this report are:

1.8.1 Plans and Documents Used

Title	Author	Rev	DWG./Doc. No./Ref. No.	Date Modified or Accessed
Existing Roof Plan	BJB Architects	C	A1003	11/03/20

Demolition Plan	BJB Architects	C	A1011	11/03/20
Proposed Café Floor Plan	BJB Architects	C	A1101	11/03/20
Proposed Cool Room Plan	BJB Architects	C	A1101	11/03/20
Landscape Plan	BJB Architects	C	A1601	11/03/20

2 Methods

The site was inspected on the 17th of April 2020 experienced and qualified ecologists Nicholas Skelton and Sophia Mueller Sewell for a total of 2 person hours. This locality has been visited on many previous occasions by the authors for various other ecological survey projects. Nicholas Skelton has 20 years of experience in Flora and Fauna surveys in the Sydney Metropolitan area and has completed over 200 bandicoot surveys and assessments in Manly for NPWS, Council, SHFT and private landowners. The field survey searched for evidence of all Threatened Species, Populations and Endangered Ecological Communities that are known to, or that may have potential habitat within the site, especially the Endangered population of Long-nosed Bandicoot.

Existing and potential foraging, resting, and nesting Long-nosed Bandicoot habitat was determined and quantified and is shown on Map 1. Existing bandicoot access to, from and within the site was also identified and mapped.

The plans referenced within this report were assessed to determine the amount and type of habitat and the access that would be altered as a result of the proposal. Map 1 shows the change in the amount of habitat and access.

The habitat potential of the site for bandicoots was determined by detailed onsite assessment of the access, shelter and food sources. The recent use of the property by bandicoots was determined by an ecologist with extensive experience in bandicoot survey in urban environments, by searching for diggings, scats, frequently used trails and boundaries were thoroughly searched for accessibility by bandicoots. The road reserve and accessible parts of nearby properties were searched for evidence of bandicoot activity and habitat value. Photographs were taken of the site. The findings from other reports from nearby surveys and studies were also used to provide additional habitat use information. Habitat for other Threatened species was searched for. Field notes are available for scrutiny.

3 Findings

3.1 Long-nosed Bandicoot Use of Adjacent Land

During the field survey evidence was found of Bandicoots utilising the adjacent lawn areas at Little Manly Beach, the road reserve and Little Manly Point Park. It is likely that bandicoots also use the nearby residential properties and nearby bushland areas for resting and breeding as well as foraging due to the good quality habitat. Bandicoots have been recorded regularly in the locality. These animals are all from the Endangered Long-nosed Bandicoot population at North Head.

3.2 Existing Bandicoot Habitat and Access

The site currently contains 118m^2 of bandicoot foraging habitat that is shown in green on Map 1. The habitat provided contains of mown lawn, areas of bare dirt and weedy/planted vegetation. Bandicoot diggings were observed within the habitat surrounding the kiosk. No resting or nesting bandicoots were observed on the property during the site survey.

There are no barriers prevent bandicoot access to all potential habitat at the Site and surrounding land. There is access to the habitat at the Site from the north-east and west and across the gentle grass slope. The concrete block wall retaining the soil and vegetation to the north of the Site is only low enough to be accessed at some areas along the wall.

Map 1 shows the existing bandicoot habitat and access at the site.

3.3 Proposed Bandicoot Habitat and Access

Map 1 summarises the existing and proposed bandicoot habitat and access to, from and within the site.

The proposed new cool room, bin storage and pathway will result in a permanent loss of 32m^2 of foraging habitat from with the Study Site.

There is no proposed changes to bandicoot access at the Site or surrounding area.

See Red lines that show bandicoot access barriers.

3.4 Existing Penguin Habitat and Access

The site is not within the area defined as an Area of Outstanding Biodiversity Value (AOBV) for this population. The declared Area of Outstanding Biodiversity Value in the Biodiversity Conservation Act 2016 is the same as the former Critical Habitat that is defined in the repealed Threatened Species Conservation Act 1995 as;

Area A, starting west of Collins beach to the northern side of Cannae Point and includes Collins Store and Quarantine Beaches and Area B starting from the foreshore area at 11 Oyama Avenue, winds around Manly Point to 26 Addison Road. Both Areas A & B include an aquatic area out to 50 m from the mean high-water mark and a terrestrial area from the mean high water mark and up the rocky foreshore slope. Area A includes clifftop habitat, whereas Area B starts at the clifftop.

The Site is not within the declared Area of Outstanding Biodiversity Value.

The site is within Schedule 1 - Map D - *Areas where Assessment of Significance is required (for Little Penguins and/or Long Nosed Bandicoots)* of the Manly Development Control Plan 2013.

The site is less than 10m from Little Manly Beach which is potential loafing habitat. The rocky foreshore 130 south-west is Little Penguin nesting, moulting and loafing habitat and there is potential habitat on the rocky foreshore 44m south-east. The Study Site is accessible from the foreshore/beach via the pedestrian stairs and ramp. There is no suitable nesting or moulting habitat at the Study Site as there are no crevices or dense vegetation that provide the necessary cover and protection from predators. Good quality penguin nesting habitat is caves, rock overhangs and similar man-made features

There is no known history of penguins using this site for nesting or roosting. There was no evidence of penguin activity found on the site.

3.5 Proposed Penguin Habitat and Access

The study site currently provides poor quality Little Penguin habitat. The proposal will remove some of this low value potential habitat to construct the cool room/storage area (see Map 1). There are no proposed changes to the access for Little Penguin to the Site or surrounding land.

Map 1: Changes to Potential Access and Habitat

Map to be viewed in colour

Barrier to Movement

Bandicoot Foraging Habitat

N

Little Manly Beach Kiosk

6 May 2020

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3.6 During Construction Impacts

Likely impacts during construction are:

- Temporary restriction of access to habitat for bandicoots, penguins and other fauna due to skips, site fences and storage of materials. **Low impact**;
- Temporary potential hazards to bandicoots, penguins and other fauna including falling into open pits and drowning hazards. **Low risk**, this is not very likely at this site;
- Temporary additional traffic movement around the street. **Low risk**.

The proposal will temporarily remove most of the habitat on the site during construction due to demolition and material storage.

Measures to ameliorate these potential impacts are discussed in the Recommendations and Ameliorative Conditions sections of this report.

3.7 Habitat and Presence of Other Flora and Fauna Species

Non threatened Fauna

The site contains low value habitat for non-threatened fauna. There is better quality habitat immediately adjacent to the Site and in the wider locality. The surrounding land provides habitat for Ring-tailed or Brush-tailed possums, Rainbow Lorikeets (Trichoglossus moluccanus), Laughing Kookaburras (Dacelo novaeguineae), Eastern Blue-tongue Lizards (Tiliqua scincoides), Garden Skink (Lampropholis guichenoti), Crested Pigeon (Ocyphaps lophotes), Noisy Miners (Manorina melanocephala) and Brush Turkeys (Alectura lathami). The beach adjacent to the Site provides habitat for sea birds and the Native Water Rat (*Hydromys chrysogaster*). Recommendations are made to reduce the chance of harm to these and other native fauna.

Threatened Fauna

Threatened Grey-headed Flying-foxes and micro-bats regularly fly over this Site, and there are OEH BioNet records of these species occurring in the locality. There is a large amount foraging habitat for these species in the locality. There is no evidence of any roosting at the site.

Approximately ten years ago, the local population of Eastern Pygmy Possum and Brown Antechinus became extinct, and the local population of native Bush Rat population became non-viable or locally extinct. The Sydney Harbour Federation Trust employed the conservation group, Australian Wildlife Conservancy to manage the fauna on part of North Head. As part of their management, in collaboration with Sydney University, they reintroduced the Eastern Pygmy Possum, Brown Antechinus and the native Bush Rat to North Head. The three species are all breeding, and the local populations are becoming established, with the Bush Rat population being the most successful. So far as they are out-competing the introduced Black Rat and now the population covers most of North Head.

The native Bush Rat can possibly be found in the urban area; however, it is unlikely that the Antechinus or the Pygmy Possum occur in the urban area yet.

The native Bush Rat, Antechinus and Eastern Pygmy-possum have been recorded along Darley Road, adjacent to the north of St Patricks.

Threatened Plants

There are local populations of the endangered Magenta Lillypilly, Syzygium paniculatum and Sunshine Wattle (Acacia terminalis subsp. terminalis) on North Head and the Magenta

Lillypilly has been recorded in the nearby Bower Street Gully Reserve but it does not occur on this site.

No evidence was found of any other Threatened Species, Population or Endangered Ecological Community on this property at the time of the survey. None of the other six (6) endangered and twenty-eight (28) vulnerable fauna species that occur in the Manly area where found on the site or have important habitat on the site.

3.8 Ecological Communities

The NSW Biodiversity Conservation Act (BC), 1995 and the Federal Environment Protection and Biodiversity Conservation (EPBC) Act 1999, both list Threatened Ecological Communities. Threatened ecological communities can be either Vulnerable (VEC) or Endangered (EEC) or Critically Endangered (CEEC) Ecological Communities under the BC Act. The Federal Act lists only Endangered or Critically Endangered Ecological Communities. These communities are likely to become extinct in nature unless the circumstances and factors threatening their survival cease to operate. The listing is most commonly referred to as a determination, which is a several page definition of the community written by a scientific committee and listed in the schedules of the Act.

During the site survey, the likelihood of Endangered Ecological Communities occurring on the site was determined using a three-step approach: 1. Has the community been recorded in the locality? 2. Is there a sufficient density of characteristic species on the site? 3. Does the environmental description in the Determination fit the site?

Littoral Rainforest Endangered Ecological Community

Littoral rainforest in the NSW North Coast, Sydney Basin and South East Corner Bioregions endangered Ecological Community (EEC) is generally a closed forest, the structure and composition of which is strongly influenced by proximity to the ocean. The plant species in this ecological community are predominantly rainforest species with evergreen mesic or coriaceous leaves. Planted Littoral Rainforest is likely to occur in the nearby Bower Street Gully Reserve.

There are not enough native species on the site or the correct structure for the vegetation on the site to represent any native vegetation community. No Endangered Ecological Community occurs on the site.

4 Impact Assessment

This Test of Significance is in accordance with the Threatened Species Assessment Guidelines recommended for use by Manly Development Control Plan 2013 (MDCP 2013) in section 2.1.15.2 (a).

4.1 Test of Significance (5-part test) for the Long-nosed Bandicoot Population

Part 7.3 of the BC Act. This Assessment of Significance is in accordance with the Threatened Species Assessment Guidelines (DPI 2008) recommended for use by Manly Development Control Plan 2013 (MDCP 2013) in section 2.1.15.2 (a).

(a) in the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

The Long-nosed Bandicoot population on North Head is listed in the Schedule 1, Part 2, Division 4 of the BC Act 2016 as an Endangered Species Population.

The local population is viable at least in the short term. In May 2015, a total of 152 individual Long-nosed Bandicoots were trapped at North Head, compared to 99 in 2014, and 71 in 2010. The sex ratio of the bushland population is relatively even. Under current conditions, the North Head Long-nosed Bandicoot population has a 62% chance of persisting after 50 years. This figure has dropped from 80% in since the previous PVA, due to the slightly higher sex specific adult mortality rates used in the current PVA's (Price & Banks, 2015). The latest PVA analysis determined that the population is stable and has been for the last few years.

The study site currently provides 118m^2 of medium quality foraging habitat in lawn and garden surrounding the kiosk. There is more habitat adjacent to the Site at Little Manly Beach. The proposal will result in a permanent loss of 32m^2 of foraging habitat from the Site. (See before and after Green areas on Map 1).

This population is restricted to North Head, which has an area of 385 ha, of which only a negligible amount will be lost due to the proposed development. The change in bandicoot habitat is of a scale that is not likely to lead to the reduction in the population size or reproduction success of individuals, the population or their habitat. The proposal is not likely to have a significant negative effect on the life cycle of this population such that the viability of the population is compromised and placed at risk of extinction.

(b) in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

Response:

The Long-nosed Bandicoot Population at North Head is listed as a threatened population and not an Endangered or Critically Endangered Ecological Community; therefore, this question is not applicable.

(c) in relation to the habitat of a threatened species, population, or ecological community:

*i) the **extent** to which habitat is likely to be removed or modified as a result of the action proposed, and*

Response:

The study site currently provides 118m^2 of good quality foraging habitat. The proposal will result in a permanent loss of 32m^2 of foraging habitat from with the Site. (See before and after Green areas on Map 1).

This population is restricted to North Head, which has an area of 385 ha, of which only a negligible amount will be lost due to the proposed development.

This population and a large part of the suitable habitat on North Head is situated within Sydney Harbour National Park and land managed by the Sydney Harbour Federation Trust as a conservation area. A significant proportion of this population also occurs on St Patrick's Estate and other private urban land on North Head.

The change in the **extent** of bandicoot habitat is of a scale that is not likely to lead to the reduction in the population size or reproduction success of individuals, the population or their habitat. If the recommendations of this report are followed, the proposed development will not change the access to this habitat .

*ii) whether an area of habitat is likely to become **fragmented or isolated** from other areas of habitat as a result of the action proposed, and*

Response:

Access to habitat on the property (See Dark Blue arrows on Map 1) will not be changed by the proposal. See Map 1 for proposed bandicoot habitat and access to, from and within the site.

*iii) the **importance** of the habitat to be removed, modified, fragmented or isolated to the **long-term survival** of the species, population or ecological community in the locality*

Response:

This population is restricted to North Head, which has an area of 385 ha, of which only a negligible amount will be lost due to the proposed development.

The change in bandicoot habitat is of a scale that is not likely to lead to the reduction in the population size or reproduction success of individuals, the population or their habitat. The proposal is not likely to have a significant negative effect on the life cycle of this population such that the viability of the population is compromised and placed at risk of extinction.

(d) whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly),

Response:

There is no Area of Outstanding Biodiversity on the site. The proposal will not directly or indirectly affect any Area of Outstanding Biodiversity Value.

(e) whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.

Response:

The following Key Threatening Processes are relevant to the Site and/or the proposal

Clearing of native vegetation: The proposal will not remove any native vegetation. Therefore, the proposal will not to the increase of this or any other listed Key Threatening Process.

Conclusion to the 5-Part Test of Significance on the Endangered populations of Long-nosed Bandicoots.

It is not likely that the proposal will have a significant impact on the Endangered Long-nosed Bandicoot population at North Head. Entry into the Biodiversity Offset Scheme (BOS) and further assessment in the form of a Biodiversity Development Assessment Report (BDAR) is not considered necessary for this population.

4.2 5-part Test of Significance for the Little Penguin Population at Manly

This Assessment of Significance is in accordance with the Threatened Species Assessment Guidelines (DPI 2008) recommended for use by Manly Development Control Plan 2013 (MDCP 2013) in section 2.1.15.2 (a).

(a) In the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

The local population is viable at least in the short-term; a Population Viability Assessment has not been carried out for this population due to the variability in the population data. During the 2016/17 breeding season 41 breeding pairs were counted, with 103 eggs laid and 79 fledging's counted. Breeding activity was lower than average across all sites within both the urban areas and Sydney Harbour National Park (OEH 2017). In the (2018/2019) season 28 breeding pairs, were recorded (Manly Daily 2019). These results are considerably lower than all previously surveyed years.

There are no records of Penguins using this site for nesting or roosting. No evidence of penguin use was found during the site survey. It is unlikely that penguin use this site due to lack of suitable cover and distance from known habitat. Access to habitat and the amount of habitat will not change such that the local population will be placed at risk of extinction. The proposal will remove some of the low value habitat at the Site. (See before and after green areas on Map 2). There will be no change in Little Penguin access to the Site or surrounding land.

The proposal is not likely to lead to the reduction in the population size or reproduction success of individuals in the population. The proposal is not likely to have a significant

negative effect on the life cycle of this population such that the viability of the population is compromised and placed at risk of extinction.

(b) In the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:

(i) Is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or
(ii) Is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

Response:
The Little Penguin population at Manly is not listed as an Endangered or Critically Endangered Ecological Community; therefore, this question is not applicable.

(c) In relation to the habitat of a threatened species or ecological community:
(i) the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and
(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and
(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality,

Response:

i) Due to lack of dense vegetation cover, rocky overhang, suitable man-made structures, the study site currently provides very low value nesting habitat. The proposal will remove some of this low value habitat. (See before and after green areas on Map 2).

ii). The increase in human use will likely deter penguins. However, access will still be provided. See Map 2 for proposed penguin habitat and access to, from and within the site.

iii) There are no records of penguins using this site for nesting or roosting. The proposed development will result in a minor loss of potential penguin habitat; however, it is not considered a significant amount of habitat that would be important to the long-term survival of this population.

(d) whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly),

Response:
There are no declared Areas of Outstanding Biodiversity Value (AOBV) on or adjacent to the property. A declared AOBV for the Endangered population of Little Penguins is located approximately 250m south-west of the site. The proposal will not directly or indirectly impact this AOBV.

(e) whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.

Response:

Listed Key Threatening Processes relevant to this proposal include:

Clearing of native vegetation: The vegetation to be removed as a result of the proposal is mostly planted garden species and does not classify as native vegetation.

Predation by the red fox (Vulpes vulpes): The proposal will unlikely increase access for foxes to important penguin habitat.

Conclusion: No evidence of penguin use was found during the site survey. It is unlikely that penguin access this site due to the distance from the foreshore. The site only contains very low value potential nesting habitat. The proposal is not likely to have a significant negative effect on this habitat or the long-term survival of the population in the locality. It is not likely that the proposal will have a significant impact on the Little Penguin Population at Manly and further assessment in the form of a Biodiversity Development Assessment Report (BDAR) is not considered necessary for this proposal.

4.3 Manly LEP 2013 Assessment of Clause 6.5 (3) & (4), Terrestrial Biodiversity

Manly LEP 2013 'Terrestrial Biodiversity Map' shows the subject property is located within an area identified as of 'Terrestrial Biodiversity'.

Therefore Clause 6.5 of MLEP 2013 applies to this Development Application and the objectives of the clause and in particular points (3) and (4) must be considered in regard to this proposal.

4.3.1 Clause 6.5 (3) Assessment

a) Whether the development is likely to have:

i. Any adverse impact on the condition, ecological value and significance of the fauna and flora on the land?

Response: The site survey found evidence of the Long-nosed Bandicoot site and adjacent land at Little Manly Beach. It is likely that bandicoots use the adjacent residential properties and nearby bushland areas including Little Manly Point Park for foraging and probably resting and breeding, and they have been recorded regularly in the locality.

Other fauna that are likely to use Little Manly Beach reserve include possums, Rainbow Lorikeets, Noisy Minors, Sulphur Crested Cockatoo, Garden Skinks, Eastern Water Dragon and Brush turkeys, Crested Pigeon. Eastern Water Dragons and a Diamond Python skin were observed on the site during the survey.

The Site contains low value habitat for Little Penguins due to lack of dense vegetation or rocky areas. There is good quality nesting, moulting and loafing habitat within 200m of the Site.

The study site currently provides 118m^2 of good quality bandicoot foraging habitat provided by lawns and garden beds surrounding the kiosk building (See before and after Green areas on Map 1).

The proposal will remove 32m^2 of vegetation that is foraging habitat for Long-nosed Bandicoots and low value habitat for other native species including the Little Penguin.

Access to the habitat will not change for all species that potentially use the Site.

No evidence was found of any other Threatened Species, Populations or Endangered Ecological Communities utilising this property.

Based on the information gathered and the assessments of potential impacts of the proposal on flora and fauna in section 3 of this report, it is considered that the proposal will not have

any adverse impact on the condition, ecological value and significance of the fauna and flora on the land.

ii. Any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna?

Response: The vegetation on the site is low quality habitat for a wide range of fauna including reptiles, birds and mammals. Brush-tailed and Ring-tailed Possums are likely to occur. There is no native vegetation community on the property. The proposal will remove mostly planted garden species or weeds which provide some foraging habitat to native species including the Long-nosed Bandicoot. The Landscape Plan (BJB Architects 11/03/20) proposes to plant around the new concrete pathway.

Based on the findings and assessment of the impact of this proposal on flora and fauna in sections 3 and 4 of this report, fauna habitat is not likely to be adversely impacted by the proposal and the habitat is not likely to be important habitat for these species due to the higher quality bushland habitat to the east in Sydney Harbour National Park. The proposed development will not have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna.

It is recommended that local native species be used in landscaping on the property to improve that habitat value of the vegetation to native fauna.

iii. Any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land?

Response: Based on the findings and assessment of the impact of this proposal on flora and fauna in sections 3 and 4 of this report, the proposed development will not significantly fragment, disturb or diminish the current biodiversity structure, function and composition of the subject site. See section 4 for details.

Any adverse impact on the habitat elements providing connectivity on the land?

Response: Little Manly Beach reserve is linked to Little Manly Point Reserve to the south-east. There is remnant habitat within residential backyards to the north and west of the site, however these are separated from the Site by roads. Access to the habitat will not change for birds or arboreal mammals such as possums that are using the site. Access to the habitat for bandicoots and penguins (See Dark Blue arrows on Maps 1 and 2) will not be changed by the proposal.

Based on the findings and assessment of the impact of this proposal on flora and fauna in sections 3 and 4 of this report, this proposal will not adversely impact on the habitat elements providing connectivity to other areas of suitable habitat.

b) Are there appropriate measures proposed to avoid, minimise or mitigate the impacts of the development?

Response: This report makes recommendations for appropriate measures to avoid, minimise or mitigate the impacts of the development. See the Ameliorative Conditions and Management Recommendations sections of this report for further information.

4.3.2 Clause 6.5 (4) Assessment

a) Is the development designed, sited and will be managed to avoid any significant adverse environmental impact? OR

Response: The development has been designed utilise mostly existing disturbed and concrete areas. The proposal will retain access for movement of bandicoot species at Little

Manly Beach reserve. The recommendations and ameliorative conditions in this report provide measures to manage and mitigate impacts.

b) *If the impact cannot be reasonably avoided by adopting feasible alternatives—is the development designed, sited and will be managed to minimise that impact? OR*

Response: The development has been designed utilise the site mostly existing disturbed and concrete areas. The proposal will retain access for movement of bandicoot species at Little Manly Beach reserve. The recommendations and ameliorative conditions in this report provide measures to manage and mitigate impacts.

c) *If that impact cannot be minimised—will the development will be managed to mitigate that impact?*

Response: N/A

Conclusion to the Assessment of Clause 6.5 of the MLEP

The proposal is consistent with the requirements of Clause 6.5 of the MLEP 2013 and is not considered to have a significant adverse impact on terrestrial biodiversity.

4.4 State Environmental Planning Policies and Sydney Regional Environmental Plan

4.4.1 SEPP 19 Bushland in Urban Areas Assessment

The site does not contain natural vegetation with intact structure and floristics and therefore does not fit the definition of Bushland as described in SEPP 19 (Bushland in Urban Areas 1986).

The proposed works, with the amelioration recommendations described in this report, will have a very low impact on the environment, they will not disrupt any fauna corridor, they will not endanger and plant or animal species, they will not cause significant erosion and they will not change the accessibility or recreational value of bushland. The proposed works therefore are considered generally to meet the objectives of SEPP 19.

4.4.2 SREP Sydney Harbour Catchment 2005 Assessment

The site is included within the Sydney Harbour Catchment Map and therefore assessment with respect to SREP Sydney Harbour Catchment is required. This proposal is consistent with the matters to consider in respect to the biodiversity, ecology and environment protection of the site.

4.4.3 SEPP Coastal Management 2018 Assessment

The site is mapped as Costal Environment Area and Coastal Use Area in the Coastal Management SEPP 2018.

The site is not mapped as containing Littoral Rainforest, Coastal Wetland, Proximity to Littoral Rainforest or Proximity to Coastal Wetland.

4.5 EPBC Act 1999 Assessment

Flora, fauna and ecological communities within Manly, which are listed under the EPBC Act:

Eastern Suburbs Banksia Scrub is listed as Endangered.

Grey-headed Flying Fox (*Pteropus poliocephalus*) is listed as Vulnerable.

Littoral Rainforest and Coastal Vine Thickets of Eastern Australia is listed as Critically Endangered.

Sunshine Wattle (*Acacia terminalis subsp. terminalis*) is listed as Endangered.

Seaforth Mintbush (*Prostanthera marifolia*) is listed as Critically Endangered.

Pimelea curviflora var. curviflora is listed as Vulnerable.

North Head is listed as a National Heritage Place. About 277ha, at Manly, comprising the whole of the headland, to Low Water, south of a line commencing at Low Water north of Collins Beach on the alignment of the north-west boundary of Lot 2763 DP752038, then easterly via that alignment and boundary and then following the north-westerly boundaries of Lot 2774 DP752038 Lot 2728 DP752038, Lot 2764 DP752038 and Lot 2763 DP752038 to the most northerly point of Lot 2763 DP752038, then generally easterly via the north-east and northern boundaries of Lot 2763 DP752038 and the alignment of the latter segment to Low Water. Excluded is the North Head Sewage Treatment Plant being the whole of Lot 1 DP604428.

The only matters of relevance to this proposal are migratory species, threatened species and communities and national heritage places. North Head is on the National Heritage List as of 12 May 2006 but the listing does not include this part of North Head. This Endangered Bandicoot Population is not listed in this Act. The relevant matters of National Environmental Significance have been considered. This proposal is not considered likely to have an impact on any matter of National Environmental Significance and referral is not required.

4.6 Biodiversity Conservation Act 2016, Threshold Test

This proposal is **not** considered to meet the BC Act threshold as;

1. The lot size is less than 1ha and there is less than 0.25ha of native vegetation being removed. **and**
2. The proposal will not directly or indirectly a declared Area or Outstanding Biodiversity Significance (AOBV) or an area mapped as having high biodiversity value on the "Biodiversity Values Map". **and**
3. There is not likely to be a significant affect (5-part test of significance test in Section 7.3, BC Act) on any Threatened species or ecological community or their habitat as has determined by this report.

Therefore, the proposal does not need a Biodiversity Development Assessment Report (BDAR).

5 Conclusions

Evidence of Long-nosed Bandicoots were observed on the site during the survey. No evidence was observed of Little Penguin's using the site and there is no history of penguins nesting at the site.

The study site currently provides 118m^2 of good quality bandicoot foraging habitat and there is a larger area of habitat at Little Manly Beach reserve. The proposal will result in a permanent loss of 32m^2 of foraging habitat from the Site. (See before and after Green areas on Map 1). (See before and after Green areas on Map 1).

The site contains low value Little Penguin habitat, due to lack of suitable cover and protection from predators. There is good quality Little Penguin habitat within 200m of the Site. The property will remove some of the low value Little Penguin habitat on the site.

Access to Long-nosed Bandicoot and Little Penguin habitat (See Dark Blue arrows on Map 1) will not be changed by the proposal.

The development is unlikely to have a significant impact on the conservation of any Endangered Population, Threatened Species or Endangered Ecological Community. The proposal does not meet the BC Act Threshold Test. Further assessment of the impact of this proposal in the form of a Biodiversity Development Assessment Report (BDAR) not recommended in relation to this development application at this site.

The ecological impact is not considered an unacceptable impact under section 4.15 (79C(b)) of the Environmental Planning and Assessment Act 1979 or a significant impact under Section 7.3 of the Biodiversity Conservation Act 2016.

The proposal is not considered to be a 'matter of National Environmental Significance (NES)' EPBC Act referral of the proposal to the Department of the Environment and Water Resources is not considered necessary.

The proposal will not have a significant impact to terrestrial biodiversity and meets the requirement of clause 6.5 of the MLEP.

We recommend that the ameliorative conditions and management recommendations in this report be followed to limit disturbance during construction and to further reduce the impact of the proposal on potential bandicoot habitat and access.

6 Ameliorative Conditions

- If the plans change from what is described in this report or what is shown on Map 1 then the impacts will change and this report may need reviewing.
- Long-nosed Bandicoot access is to be maintained to the retained garden areas behind (north) of the kiosk building across the new landscaped area.
- In areas of habitat for the Long-nosed Bandicoot and Little Penguin, landscape design should include native plant species to provide new and/or improved low dense clumping habitat to provide for potential foraging and nesting. The planting schedule should comprise species such as *Lomandra sp. Dianella* sp., *Banksia spinulosa, Caustis* sp., *Xanthorrhoea* sp., *Isolepis* sp., *Juncus* sp., *Calochlaena* sp., *Callistemon* sp., *Gleichenia sp.* and *Grevillea* 'Robyn Gordon' (Manly DCP 2013 Section 3.3.1 [a][iv]).
- To the untrained eye an Endangered Long-nosed Bandicoot may be mistaken for a rat. To avoid direct physical harm or poisoning to Long-nosed Bandicoots and Little Penguins, it is important that workers on the site are aware of their presence and their conservation significance and the steps to take to protect them.
- While temporary fencing around the construction area is usually a standard requirement, even purpose built fencing has been known to be ineffective in excluding bandicoots and penguins from construction sites. It is therefore essential that daily checks be undertaken to ensure the construction/works areas are free of bandicoot and penguin occupation including sheltering sites. All excavations and stockpiles of construction material are to be inspected daily prior to commencing operation to ensure that no bandicoots or penguins are sheltering in these areas. In the case that a Long-nosed Bandicoot or Little Penguin is encountered within one of these work areas, no work shall proceed until the bandicoot or penguin has safely vacated the works area.
- **Noise and vibration** discourages bandicoot and penguin occupation of this and adjacent sites. Normal construction hours are to be adhered to, with no machinery to be used outside the hours of 7:30am and 4:30pm.

- **Bright lighting** discourages bandicoot and penguin occupation. No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas. A modest amount of low lighting is acceptable for safety purposes only.
- While bandicoots can swim short distances, they are not strong swimmers and as such pools and ponds, which present a fairly unnatural water body edge, can become a drowning hazard for bandicoots. The design of the pool should allow bandicoots to be able to climb out the water if necessary.
- Rat baiting is to only occur within buildings. No Rat baiting should occur under or outside buildings.
-

7 Management Recommendations

- Injured bandicoots or penguins should be given expert care in order that they can be rehabilitated and returned to the population where possible. It is also important that any deceased bandicoots or penguins are reported, so that appropriate investigations can be undertaken to understand the cause of death to inform the future management and recovery of the endangered Long-nosed bandicoot population and Endangered Little Penguin population. Any **injured or dead Long-nosed Bandicoots Little Penguins** should be reported by phoning Council on 9976 1500 or National Parks and Wildlife Services on 9457 9577.
- Modest, low external lighting in the garden should be used at the minimum level required for safety.
- Landscaping watering and additional cover in the form of planting low, dense vegetation will increase the value of the foraging habitat and facilitate bandicoot persistence in the urban mosaic.
- Bandicoots, penguins and other native animals should **not be fed artificial foods** as it may cause them nutritional problems and may increase predation.
- Feral animals including cats and/or foxes should never be fed, nor should food be left out where they can access it, such as rubbish bins without lids, or in pet food bowls, as these animals present a significant threat to Long-nosed Bandicoots and other wildlife.
- Rat baiting is to only occur within buildings. No Rat baiting should occur under or outside buildings.
- The use of insecticides, fertilisers, or snail baits should be avoided on the property. Garden insects will be kept in low numbers if Long-nosed Bandicoots are present.
- Care should be taken when driving in the area, especially at night as bandicoots have little road sense and cars are a major threat to bandicoots.
- Dead bandicoots or penguins should be reported by phoning Council on 9976 1500 as they will assist in monitoring the program.

  Please report all sightings of feral rabbits, feral or stray cats and/or foxes to Council on 9976 1500 or NPWS or 9457 9577.

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