

Natural Environment Referral Response - Biodiversity

Application Number:	DA2023/0129
Proposed Development:	Subdivision of one lot into 13 lots and associated works
Date:	21/11/2023
Responsible Officer	Adam Croft
Land to be developed (Address):	Lot B DP 370222 , 4 Forest Road WARRIEWOOD NSW 2102

Reasons for referral

This application seeks consent development on land, or within 40m of land, containing:

- All Development Applications on
- Actual or potential threatened species, populations, ecological communities, or their habitats;
- Wildlife corridors;
- Vegetation query stipulating that a Flora and Fauna Assessment is required;
- Vegetation query - X type located in both A & C Wards;

And as such, Council's Natural Environment Unit officers are required to consider the likely potential environmental impacts.

Officer comments

Revised Comments

The amended subdivision design is noted, showing a reduction in the heights of some retaining walls, changes to Lot 13, and also a revised layout of Road MC01. The revised Arborist Report, Landscape Plan and letter from the Bushfire Consultant are also noted. As previously identified, the majority of biodiversity impacts are within the unmade road reserve due to construction of road ways, retaining walls and the proposed off site bushfire asset protection zones.

The amended proposal has not fully addressed the previous concerns and issues raised, and cannot be supported in its current form. Additional information is required in order to demonstrate how the proposal has avoided and/or minimised impacts to biodiversity values, including native vegetation. Where a proposal cannot avoid or minimise impacts to biodiversity, then additional justification is required in order to support the likely impacts, and additional compensatory measures should be proposed.

Specifically, in addition to the lack of avoidance and minimisation of impacts, the proposal cannot be supported due to inconsistencies or lack of information including:-

- The numbers of trees to be removed is greater than that noted by Urbis, with the revised plans and Arborist indicating the removal of 19 high value trees. Of the 19 trees to be removed, 14 are located off-site.
- Based on a site visit of the road reserve, additional trees and native vegetation is likely to be impacted as part of the development proposal (e.g *Syncarpia glomulifera*, *Allocasuarina torulosa*).

- The letter from Travers has not addressed the revised plans, especially the reduction in retaining wall heights between the building platforms and the hazard.
- APZ are proposed off site which is only considered under exceptional circumstances, and section 3.2.5 of Planning for Bushfire Protection (PBP) must be addressed as part of the application.
- Road gradients proposed exceed the maximum slope allowed for under PBP.
- No total area of clearing has been stipulated in the FFA report and additional information is required to complete the assessment, including a map showing the calculated area of native vegetation removal. The report also states that the retention of trees 21, 23 and 24 will be possible after alteration of the cut and fill works proposed for the peripheral road which will constitute part of the Asset Protection Zone. Clarification as to what trees are to be retained and removed is required due to conflicting reports. The FFA has used an earlier revision of the Arborist assessment as well as an outdated Subdivision Plan, and therefore the conclusions of the report are invalid.
- The FFA is to review the previous assessments (Anderson, Sclerophyll and Dominic Fanning) for the adjoining 8 Forest Road site, and include a summary of relevant information. The Report lacks details on surveys conducted, especially survey of existing man made structures on site for the presence of threatened microbat species. Figure 3.2 maps a record of Fishbone Fern as a threatened species.
- The FFA does not assess the direct and indirect impacts of the proposal adequately, with the plans indicating cut and fill across the entire site and adjoining areas and retaining wall > 8 metres in height. The proposed safeguard measures are not specific or relevant to the proposal and must be revised and updated. The Habitat assessments are to be reviewed as the majority indicate 'No Habitat' for the majority of species, however Assessments of Significance have been completed for several of these species. The information is also incorrect in some sections, for example the Powerful Owl assessment indicates 4 trees to be removed, and the microbat assessment talks about surveys of building however this has not be detailed within the body of the report.
- The landscape proposal has included a range of species based on the Warriewood Valley Masterplan. However recommendations within the AIA and FFA recommend like for like replacements for the removals proposed within the site. This issue must be clarified, and suitable areas or locations for like for like replacements identified, or other measures, in order to mitigate and compensate for the potential impacts to biodiversity values.

Original Comments

The proposal seeks approval for subdivision and associated works, including extensive cut and fill, road construction, retaining walls and tree removals both on and off the subject site.

The comments on this referral relate to the following controls and provisions:

- NSW Biodiversity Conservation Act 2016
- Planning for Bushfire Protection 2019
- Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection
- Pittwater 21 DCP - Clause B4.18 Heathland/Woodland vegetation

The subdivision proposal has been submitted with an Arboricultural Impact Assessment report (AIA), a Flora and Fauna Assessment report (FFA), a Bushfire report, Civil Engineering Plans and a proposal for landscaping.

The Biodiversity Planning team cannot support the subdivision proposal in its current format as the

designs do not avoid or minimise impacts to native vegetation, especially the areas within and adjoining the southern and western boundaries of the site. The need to extensive cut and fill and retaining walls up to 8 metres high will not avoid or minimise the direct and indirect impacts or the proposal. An alternate lot and road layout is recommended to avoid and minimise these impacts, and the need for larger APZ's as highlighted by the NSW Rural Fire Service should also be factored into a revised layout. The use of the existing turning head at the end of Forest Road and current location of site entry/driveway should be utilised instead of the layout proposed as this will further avoid and minimise impacts.

- The AIA report concludes that a total of 23 high category trees and 14 low category trees would be lost if the proposal is approved. No objection is raised in regards to the removal of twelve trees on the basis of the current Northern Beaches Councils' exemption list by species (Trees numbered 1,3,4,5,7,8,9,10,12,14,15,16,C). However, objections are raised as to the removal of trees 13,20,21,22,23,24,30,31,32,33,34,37,38,39 as these are located outside of the boundary of the lot which is the subject of this subdivision (As per the survey and page 28 of the AIA). Particularly noting that this includes proposed removal of trees 21,22,23,24,25 and 26 which are high value retention trees on a road reserve.
- The results of the FFA accompanying this application have been noted. No threatened flora or fauna have been detected on site and entry into the Biodiversity Offsets Scheme is not triggered by removal of native vegetation, however the area of clearing should include the proposed removal of vegetation for the purposes of establishment of APZs. No total area of clearing has been stipulated in the FFA report and additional information is required to complete the assessment, including a map showing the calculated area of native vegetation removal. The report also states that the retention of trees 21, 23 and 24 will be possible after alteration of the cut and fill works proposed for the peripheral road which will constitute part of the Asset Protection Zone. Clarification as to what trees are to be retained and removed is required due to conflicting reports. The FFA has used an earlier revision of the Arborist assessment as well as an outdated Subdivision Plan, and therefore the conclusions of the report are invalid.
- The FFA is to review the previous assessments (Anderson, Sclerophyll and Dominic Fanning) for the adjoining 8 Forest Road site, and include a summary of relevant information. The Report lacks details on surveys conducted, especially survey of existing man made structures on site for the presence of threatened microbat species. Figure 3.2 maps a record of Fishbone Fern as a threatened species.
- The FFA does not assess the direct and indirect impacts of the proposal adequately, with the plans indicating cut and fill across the entire site and adjoining areas and retaining wall > 8 metres in height. The proposed safeguard measures are not specific or relevant to the proposal and must be revised and updated. The Habitat assessments are to be reviewed as the majority indicate 'No Habitat' for the majority of species, however Assessments of Significance have been completed for several of these species. The information is also incorrect in some sections, for example the Powerful Owl assessment indicates 4 trees to be removed, and the microbat assessment talks about surveys of building however this has not be detailed within the body of the report.
- The BF report has stated that the proposed Asset Protection Zones (APZs) would be partially within the road reserve to the South and the adjoining lot on the North-Western edge of the property and indicates that all other parts of the APZs outside of the site would comprise public road, nature strips and associated infrastructure. Objections are raised as the subdivision shall ensure that all APZs to achieve BAL 29 construction of future dwelling is contained on site, as opposed to clearing additional trees for these purposes on adjoining land. The use of a Performance solution is also questioned, and Acceptable Solutions should be adopted for the

subdivision proposal. The NSW RFS have also noted issues with the APZs proposed and also question the use of Method 2 in this circumstance to achieve a BAL less than 29.

- The landscape proposal has included a range of species based on the Warriewood Valley Masterplan. However recommendations within the AIA and FFA recommend like for like replacements for the removals proposed within the site. This issue must be clarified, and suitable areas or locations for like for like replacements identified. The numbers of proposed trees are adequate for the area but do not offset the approved removals.

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Natural Environment Conditions:

Nil.