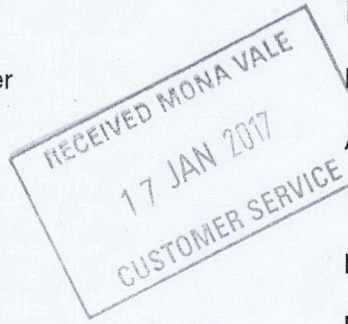


This Submission Form must be completed and attached to your submission.

DA No: N0317/16

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

(Fax No: 9970 1200)



Name: R Gooding

Address: 79 Hillside Rd

Newport Beach NSW 2106

Phone:

Date: 17 January 2017

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

**At: 62 & 85 HILLSIDE ROAD NEWPORT NSW 2106**

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

Yes  No

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

Yes  No

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

Yes  No

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

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

Please see attached document.

Name: R Gooding Signature: R Gooding Date: 17/1/17

**Disclosure of Political Donations and Gifts (sec 147 EP&A Act 1979):**  
Please read the information enclosed concerning political donations and gifts disclosure and, if relevant, tick the box below and provide details of the donation or gift on the disclosure statement available on Council's website:

I have made a political gift or donation

R Gooding  
79 Hillside Road  
Newport Beach NSW 2106  
17 January 2017

Mr Mark Ferguson  
Interim General Manager  
Northern Beaches Council  
PO Box 882  
Mona Vale NSW 1660

**Re: DA No:317/16 - Proposed Development Subdivision of 62 Hillside Road into 4 Residential lots plus civil and landscaping works to 62 and 85 Hillside Road to facilitate the subdivision**

Dear Mr Ferguson,

I am writing in response to the further information released in relation to the above DA.

The further information provided in the response by Mr Roach and the minor changes proposed to the DA do little to address the concerns of the residents who would be affected if this proposal proceeds. As I indicated in my previous response, the Littoral Rainforest on this site is an endangered ecological community (an ecological community listed as facing very high of extinction in NSW under the *Threatened Species Conservation Act 1995*). <http://www.environment.nsw.gov.au/resources/threatenedspecies/EEClittorallrainforestlowres.pdf> of which there is only 1% left in New South Wales.

This Littoral Rainforest contains many vulnerable and endangered faunal species including: the Powerful Owl, Grey Headed Flying Fox, microbats including the Eastern Bentwing Bat, Little Bentwing Bat, Superb Fruit Dove and the Sugar Glider. These species often frequent this site because of their highly mobile nature and because there is less sites available for them to frequent. If the bushland is removed these species will definitely be affected.

I have outlined some more specific concerns regarding the DA below.

## **1 THE VEGETATION MANAGEMENT PLAN (VMP) AND THE LITTORAL RAINFOREST**

The Vegetation Management Plan lasts for only five years. This Vegetation Management Plan will provide only six months of weeding and bush rehabilitation. This does not provide adequate protection to a special Littoral Rainforest which has evolved, developed and existed for hundreds of years. After five years of this VMP the owners can do whatever they like.

In addition the area which is referred to as "conservation area" is at present part of the littoral rainforest however it is proposed to make these part of the backyards of the of the dwellings. This area which is termed as a "conservation area" beyond the proposed footprints will not provide any protection for people traffic who can easily compact the ground by walking on it and could also be used for placing and storage of stuff such as

boats, tools and other things which may be acquired (including machinery) which could flatten and destroy the rainforest plants.

Cumberland Ecology has stated that there will be removal of rocks and dead wood. There is also a strong likelihood that rocks and large boulders could be removed which is a feature of this landscape. This could lead to the deterioration and degradation of a special littoral rainforest. In addition in the description of soils for Attunga Reserve it is stated as "These soils present an extreme erosion hazard if disturbed and a susceptibility to mass movement on the steep slopes". The same type of soils with the same composition is present on this site which adjoins Attunga reserve which probably contributes to the cause of soil erosion and landslips on the hillside.

Furthermore even 6% removal of the littoral rainforest and modification of 17% of the littoral rainforest as stated by Cumberland Ecology is a great loss however there is potential for even greater removal and deterioration given that the VMP will only last for five years. The wildlife corridor which exists between Attunga Reserve and this property could easily be affected with any clearing and modification to the littoral rainforest and the existing creek.

The littoral rainforest has a closed forest canopy and when it is taken into account that there will be extra clearing for the extension of the driveway and the protection zones up to 50% it could easily initially be impacted on - and after the VMP lapses and with no ongoing management, there is a probability of extensive clearing of the littoral rainforest. Removing the canopy will have a significant adverse ecological impact. In particular the micro climate will be affected in addition there will be more sunshine and winds therefore the area being exposed will be drier with less protection for the littoral rainforest. The composition of this littoral rainforest is unique with Cabbage Tree Palms, Lilypillies, Banksias, Rosewoods, Port Jackson Figs, Pittosporums, vines and several varieties of ferns etc. which are all contributing to the biodiversity of the area

There are pockets of littoral rainforest within existing nearby reserves however these reserves have in place ongoing bush regeneration which entails continued restoration and weeding programs as part of their Plan of Management. The Plan of Management for reserves clearly outlines many objectives. This is in contrast to the limited time frame of the Vegetation Management Plan proposed for this DA.

There is a significant amount of support amongst the residents to protect this remnant bushland which is clearly stated in the majority of submissions. Furthermore I would like to refer to Sepp 19 which most of the points relate to this proposed subdivision and what is termed as "conservation area" and the VMP would definitely be unable to achieve (see box below):

# State Environmental Planning Policy No 19—Bushland in Urban Areas

Current version for 22 February 2014 to date

Clause 1

## 1 Name of Policy

This Policy may be cited as *State Environmental Planning Policy No 19—Bushland in Urban Areas*.

The specific aims of this policy are:

- (a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,
- (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,
- (c) to protect rare and endangered flora and fauna species,
- (d) to protect habitats for native flora and fauna,
- (e) to protect wildlife corridors and vegetation links with other nearby bushland,
- (f) to protect bushland as a natural stabiliser of the soil surface,
- (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,
- (h) to protect significant geological features,
- (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,
- (j) to protect archaeological relics,
- (k) to protect the recreational potential of bushland,
- (l) to protect the educational potential of bushland,
- (m) to maintain bushland in locations which are readily accessible to the community, and
- (n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.

NSW Government

Furthermore the above points demonstrate how important it is to preserve, protect and maintain the many attributes which this significant parcel of land contains.

## 2 FAUNA, ENDANGERED SPECIES AND THEIR PROTECTION

Cumberland Ecology admits that “Additional to these species confirmed as present on the subject site, potentially occurring threatened species include Superb Dove, Powerful Owl, Barking Owl, Eastern Bentwing-bat, Little Bentwing-bat, Greater Broadnosed bat, Large-

eared Pied Bat, and Grey-headed Flying-fox". However Cumberland Ecology downplays the existence of these vulnerable species by stating "The occurrence of threatened fauna species is considered limited to occasional passage through the subject site as part of a wider foraging range."

It is also worth noting that the company's diurnal bird census consisted of two surveys on different days for only half an hour. The rest of the fauna surveys were also relatively brief: for example, two ANABAT detectors were set up for micro-bats, for nocturnal mammals ten hair tubes were set up, two IR cameras were set up over four nights to detect forest owls along with a high powered torch was used over five nights and to detect amphibians a high powered torch was used also over five nights.

The majority of these surveys for this DA were however conducted in winter. While the company acknowledges that previous studies have been conducted which provide a useful data base of information it is worth noting that as the recent surveys were conducted mostly in winter, far fewer birds would be present and over a limited period of time. Even so ten birds were detected during the bird survey including a Tawny Frogmouth, along with two vulnerable micro bats and a Ring-tailed Possum.

A more extensive survey throughout all the seasons would no doubt detect a greater number of species which frequent the site during the day and night as an important feeding, roosting and nesting habitat. Cumberland Ecology states that the fauna is "highly mobile" and also asserts that they are "limited to the occasional passage". This does not take into account that they are likely to return often precisely because of their high mobility and therefore this site plays an important role for the fauna of the whole area. Furthermore the stated surveys and analysis are a complete contrast to the experience of many neighbouring residents close to this site who have been observing the presence of many of these species including for example the Powerful Owl and the Grey Headed Flying Fox.

### **3 BUILDING ENVELOPES**

The slight variation in the additional information relating to the proposed indicative 200 square metres footprints still does not give any indication of the material and height of any proposed buildings. It does not seem to be sound or acceptable planning practice to approve the locations of buildings in such a sensitive area when the final height and envelope for these buildings is not known. The potential environmental, visual and amenity impacts of any proposed structures cannot be defined without this information.

### **4 THE CREEK AND HYDROLOGY**

The creek which runs through the site continues to be described as a drainage line. This is most definitely a creek which flows and swells according to the rainfall and should be preserved as it plays a vital role in water flowing from the plateau into the reserves. This is acknowledged in the Management Plan of Attunga Reserve which notes that "Most

drainage lines are insignificant except for the unnamed creek on the southern boundary with Porters Reserve”.

[http://www.pittwater.nsw.gov.au/\\_data/assets/pdf\\_file/0015/5424/Attunga\\_text\\_north1998.pdf](http://www.pittwater.nsw.gov.au/_data/assets/pdf_file/0015/5424/Attunga_text_north1998.pdf)

The creek line flows down into Attunga Reserve then continues into Porter Reserve into a pipe-line. Cumberland Ecology has stated that there will be a modification of this creek line yet there does not appear to be any acknowledgment on the part of the applicant about how extensive and important this creek line is. The council in the 2006 /07 DA described it as having numerous rivulet waterways which vary in size. Furthermore the council also stated that “Disturbance of watercourses does not comply with outcomes of planning controls and is not desirable. How the numerous water-ways will be managed is not resolved in the proposal. The impact of any diversion/treatment on the on-site and downstream habitats and waterways is also not considered”. This statement still applies to the present proposed DA application.

There have been many creeks and creek branches in Newport which have been either filled in or diverted by a pipeline. An example of this is the large grassed pathway between Foamcrest Avenue and Ocean Avenue which was once an open creek line but has been filled in. Newport at times has had flooding and flash flooding during storms and heavy rain in the vicinity of the shops also nearby and there have also been adverse effects of natural water channels being ignored.

Any disturbance to this creek will ultimately disturb the habitat for the many species which use this creek including the Eastern Water Dragon, frogs, birds, and eels which residents have observed. The flora around the creek line would also be affected. Furthermore the area around the creek if disturbed could become unstable which could increase the possibility of a landslip.

What is great concern is that if any herbicides such as glyphosate are used, this is very likely to result in the creek becoming polluted and adverse impacts on the fauna which depend on the creek for water and food. In addition this will affect the flora not only on this site but also further down the creek line. This is an important remnant rainforest and the creek line in the reserves is home to many native animals which plays a critical role within the environment.

## **5 ELECTRICITY AND LIGHT POLES**

Another important aspect which seems to have gone unmentioned in this DA is the infrastructure of electricity wires and street light poles. Residents live on Hillside Road and Kanimbla Crescent with the high visual amenity provided by bushland or coastal sea views. This proposal could lead not only to additional trees being removed but also the provision of electricity wires and light poles which could be seen from not only above the tree canopy but also from many angles all around the area.

Already there have been a number of poles either being replaced or put in new locations along Hillside Road when dwellings have been built or extended with absolutely no consultation with existing residents about the location of these poles or connecting wires. This results in adverse visual impacts which residents have had to endure. One description about the visual impact of the reallocation an existing electricity line is that “It’s like putting a thick black line through a beautiful scenic picture of the sea”.

## 6 REASONS FOR REFUSAL

This DA should definitely be refused for the following reasons:

1. The Vegetation Management Plan which is proposed to be only five years and the Conservation Area are both inadequate and would hardly provide any long term protection for the littoral rain forest. After five years there is no obligation on the owners to maintain and retain trees and vegetation.
2. This is an Ecological Endangered littoral rainforest of which less than 1% remains in NSW and therefore needs special protection and ongoing maintenance which the VMP would not be able to provide. This DA proposal undoubtedly would have significant adverse impacts on this littoral rain forest.
3. Any significant removal and modification of the littoral rainforest would have a great impact on the vulnerable species which often frequent the site such as the Powerful Owl, Grey Headed Flying Fox, The Barking Owl, Superb Fruit Dove, Eastern Bentwing Bat, Little Bentwing Bat, and the Squirrel Glider.
4. As such it would appear that this DA contravenes planning controls such as parts of the *Environmental Planning and Assessment Act 1979*. It is also worth noting that contributing factors which contribute to a species being vulnerable include habitat loss and lack of foraging and roosting sites.
5. The development will also affect nearby reserves as the wildlife corridor which endangered and many other species (including lorikeets, whip birds, honey eaters, magpies, wrens, butcher birds, king parrots, long nosed bandicoots, possums) use between these reserves would be compromised and affected.
6. The visual aspect and loss of tree canopy through clearing of the land for the footprints, APZ clearing zone, the extension of the driveway/road and potentially electricity wires and poles will be seen from many angles including Hillside Road, Kanimbla Crescent and the other side of Newport.
7. The area of the DA proposal is a high landslip zone as evidenced by several properties quite near the turntable having landslips (as recently as a couple of years ago the property No 60 which adjoins No 62 had a landslip which needed repairing). Three of the four allotments of this DA have average slopes well in excess of the 30% permitted in the *2014 Development Control Plan*. There is a strong potential for any structures built on this steep gradient and evidently landslip-prone land to easily destabilise the area even more.

8. The creek and many rivulet waterways should not be modified and altered as stated by Cumberland Ecology, as this would be much to the detriment of local species including the Eastern Water Dragon, frogs, insects and many birds. This creek course flows down to Attunga and Porter Reserve. These adjoining reserves need the creek for the flora and fauna they contain.
9. The driveway could become hazardous for cars using the turntable having to contend with 12 or more cars entering and exiting the property. In addition Hillside Road being narrow lacks adequate car parking spaces at present and extra cars for visitors etc. will only compound the problem.
10. The site forms the central part of a natural amphitheatre which already amplifies the many bird calls and animal sounds. While these natural bird calls and sounds are very pleasant, this means that any development will result in excessive noise pollution from additional cars, trucks, vans and the collection vehicles for rubbish and recycling.
11. There are no plans apart from the building footprints to control or even indicate the building envelopes height and materials for the structures that would be constructed in this sensitive ecological environment.

## **7 CONCLUSION AND RECOMMENDATIONS**

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

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

Yours sincerely

Rosalynd Gooding