

Natural Environment Referral Response - Biodiversity

Application Number:	Mod2022/0289
Proposed Development:	Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking
Date:	07/03/2023
Responsible Officer	Kye Miles
Land to be developed (Address):	Lot 3 DP 805710 , 181 Forest Way BELROSE NSW 2085

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 NSW RFS have re-issued the GTA's (12 February 2023) in relation to the modification application, and these now reflect the bush fire protection measures that were previously agreed as part of the court approved development. The Asset Protection Zones will be created and managed in accordance with the Bushfire Protection Assessment by Travers dated 9 September 2020 (Ref 18MORR02). The GTAs also confirm that access along the Crown Road Reserve to the point of entry into the site on the northern boundary shall comply with section 4.1.3 (3) of Planning for Bush Fire Protection 2006 and that no further clearing of the existing 3.5m wide access road in Crown Reserve is required.

No additional significant impacts to biodiversity values are likely to occur.

Original Comments

The proposed modifications are largely internal with the exception of some changes to the car parking and car park access ramp and will therefore have limited additional environmental impact. The Landscape Referral has addressed the conflict of the modification in relation to the landscaped front setback as required as part of the existing consent.

However, the NSW RFS have re-issued the GTA's (29 September 2022) in relation to the modification application, which requires the entire property to be managed as an inner protection area (IPA), with the exception of the outer 30m APZ to the east which is to be managed as an outer protection area (OPA).

The IPA requirement from the RFS is in direct conflict with the existing development consent and the direct and indirect impacts to biodiversity and the avoid/minimise/offset assessments of the previously approved Biodiversity Development Assessment Report (Cumberland Ecology 19/11/2019). The development application triggered the NSW Biodiversity Offset Scheme, and the consent included

biodiversity credit obligations to address the residual impacts of the proposal. The assessment included methods to avoid and minimise impacts to biodiversity, including that the "Duffys Forest TEC, which occurs as a small patch in the northern portion of the subject land has been completely excluded from the development site. The patch of Duffys Forest will be fenced from the construction site to limit impacts, and will be managed under the BMP as a fully structured community, rather than being included in the APZ, in the long term.

As additional direct and indirect impacts to threatened ecological communities and threatened species and their habitats will result, a revised BDAR is required to be submitted. Alternatively, negotiation with the NSW RFS should be undertaken to discuss the retention and management of the Duffy Forest TEC vegetation on the northern boundary, the APZ extent and the bushfire management measures previously approved in the NSW Land and Environment Court .

The proposal is therefore supported.

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

Recommended Natural Environment Conditions:

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION
CERTIFICATE**

Adherence to Natural Environment Consent Conditions

All biodiversity-related conditions of consent under previous development applications are to be adhered to, including DA2018/1654, unless amended by these biodiversity-related conditions of consent.

Reason: To protect biodiversity values.