

Natural Environment Referral Response - Biodiversity

Application Number:	DA2018/1692
Responsible Officer	Alex Keller
Land to be developed (Address):	Lot 810 DP 752038 , 810 / Willandra Road NARRAWEENA NSW 2099

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

The Development Application DA2018/1692 - Construction of a Boarding House - Portion 810/ Willandra Road, Narraweena is not supported for the following reasons.

• Unnecessary Impact on Native Vegetation

There is an unnecessary impact on canopy trees, native vegetation, fauna habitat and the previously identified Biodiversity Conservation Area from the proposed development including the Bushfire Asset Protection Zone (APZ) indicated on the plans. Modifying the design to re-orientate the building 900 and re-locating the building to the south-west will significantly reduce this impact on native vegetation. There is scope for a similar development footprint to be identified on site that will not require clearing additional native vegetation beyond that consented to previously.

• Insufficient setbacks from Bushfire Hazard

The NSW RFS have requested additional information regarding the potential radiant heat exposure on the northern elevation based upon the Court imposed re-vegetation requirement of the adjoining site to the north, Lot 811 DP752038, No.76 Willandra Road Narraweena. Modifying the design to re-orientate the building and re-positioning the location to the south-west to occur entirely within the previously approved cleared land will increase the separation distance from the re-vegetation area on Lot 811.

• Potential trigger of the Biodiversity Offset Scheme under the NSW Biodiversity Conservation Act 2016

The Flora & Fauna Assessment Report (Envirotech 25/09/18) has not supplied evidence relating to the triggers for the Biodiversity Offsets Scheme Threshold with respect to the development application submitted. While the impacts to native vegetation do not occur on an area identified on the Biodiversity Values map, the *Biodiversity Conservation Regulation 2017* sets out the area threshold level for when the Biodiversity Offsets Scheme will be triggered. For the subject site, the area clearing threshold trigger of ≥ 0.5 hectares applies. If clearing and other impacts exceeds this area trigger, the Biodiversity Offset Scheme applies to the proposed development, including biodiversity impacts prescribed by

clause 6.1 of the *BC Regulation 2017*.

The area of impact to native vegetation needs to be calculated in relation to the whole development. This includes buildings, landscaping, access roads, bushfire asset protection zones, fencing and any associated infrastructure such as sewer, stormwater and footpath construction.

Section 60B of the *Local Land Services Act 2013* provides the definition of native vegetation which means any trees, understorey, groundcover or wetland plants native to New South Wales (established in New South Wales before European settlement). The Plans indicate an enlarged APZ that will have a direct impact to native vegetation on the site. In addition, there are currently areas of native vegetation within the previously cleared areas, including the Biodiversity Conservation Area, that need to be included within any area threshold calculation.

The APZ Plan provided in Appendix 1 of the Envirotech report, prepared by Vigor Master Pty Ltd (Drawing No. DA007 dated 03/09/2018), is incorrect. The Plan incorrectly shows the extent of native vegetation on the site, and this implies that the full range of direct and indirect impacts have not been assessed by Envirotech.

The site supports high quality fauna habitat suitable to a range of threatened flora and fauna species, and the potential impact of the development has not been adequately addressed. Previous surveys and assessments should be reviewed to inform the current study, and assessments of significance conducted for a full range of threatened species that may occupy the site and that may be potentially impacted.

In general, the Report does not address the new legislation with respect to the purpose of the Act, the assessment pathway and processes, is not specific to the application submitted, does not consider the full range of impacts to native vegetation, threatened species and their habitats, and as stated above conclude whether or not the application triggers the Biodiversity Offsets Scheme. A proponent needs to supply evidence relating to the triggers for the Biodiversity Offsets Scheme Threshold and the test of significance when submitting their application to the consent authority.

Warringah LEP 2000

The Statement of Environmental Effects states that the proposed development is consistent with the Desired Future Character of the B2 Locality as it seeks to retain and protect the site's existing remnant vegetation. It states that:-

- The proposal seeks to retain and enhance a dense vegetative buffer adjacent to the frontage of the site.
- The proposal will be located in a previously cleared area of the site and seeks to retain and protect the remnant vegetation of the site.
- The proposal will be sited to enhance the existing vegetation buffer to the frontage of the site, therefore the boarding house will be well screened from the street, given the 20 metre front building setback proposed.

The SEE also states that the proposed development does not require any tree removal beyond that which has been previously undertaken on the site. These statements are not correct, and the full range of impacts to the natural environment have not been addressed, as the building will not be located in an area that will minimise disturbance of vegetation and landforms. The environmental mitigation measures, including the proposed Landscape Plan, do not meet the desired future character of enhance the natural landscape.

The application has been assessed against the following controls within the LEP.

• **Clause 56 – Retaining distinctive environmental features on sites**

The SEE incorrectly states that the proposed boarding house is located in the similar position as the previously approved dwelling house and boarding house that does not result in any direct or unreasonable impact to the existing environmental features. This statement is incorrect, and the design is not sympathetic to distinctive environmental features such as native bushland, rock outcrops and water courses on site and on adjoining land as:-

- Location of dwelling footprint requires additional native vegetation, including trees, to be removed for bush fire Asset Protection Zone (APZ). Moving the dwelling to the north-east to already cleared land will reduce impacts of APZ.
- Regrowth of native vegetation is occurring on-site that is located within the building footprint and APZ. Although this area was within the previously approved footprint, the new application will require clearing of native vegetation.
- No protection measures have been proposed for trees outside the Biodiversity Conservation areas. Trees along Willandra Road require planned protection to be implemented, and a detailed Landscape Plan provided.
- The proposal impacts the area previously identified as Biodiversity Conservation.

• **Clause 58 - Protection of existing flora**

As outlined above, the development has not been sited and designed to minimise the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native groundcover species. The development must be designed and sited to avoid any additional environmental impacts and is therefore not supported.

In summary, while the application submitted is not supported for the above reasons by incorporation the design changes proposed, combined with an increased in the environmental protection and mitigation measures, impacts to the natural environment can potentially be reduced to acceptable levels.

Referral Body Recommendation

Recommended for refusal

Recommended Natural Environment Conditions:

Nil.