

Natural Environment Referral Response - Biodiversity

Application Number:	DA2019/0409
Responsible Officer	Lashta Haidari
Land to be developed (Address):	Lot 1113 DP 752038 , 1113 / 752038 Oxford Falls Road FRENCHS FOREST NSW 2086

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

Current Referral Comments

In response to the previous referral comments, the applicant provided a letter from Travers bushfire & ecology (19 July 2019) which states that the creation of the asset protection zone within the southern portion of the Barnes Road Reserve will not require the removal of native vegetation, and therefore will not trigger the NSW Biodiversity Offset Scheme (BOS). They state that only hand removal of exotic species is required in order to achieve the required asset protection standards.

The vegetation within the road reserve area has previously been mapped by Travers as 'Canopy with managed understorey' and 'Canopy with dense weed understorey' (Bushland Regeneration and Biodiversity Management Plan Travers Bushfire & Ecology 12 April 2019). For the purposes of determining whether or not the BOS is triggered under the area clearing threshold, additional information regarding the extent of native vegetation within the road reserve would have been of assistance to support their claims. Based on a recent site visit it was confirmed that non-native plant species dominate within the road reserve area, although the claim that no native vegetation will require removal could not be verified. It is considered that while creation of the APZ would contribute to the total amount of native vegetation impacted by the development, the amount required to create the asset protection zone would not lead to the area threshold being exceeded.

However, following discussions with Council traffic engineers and transport assets staff, they consider that an upgrade to the northern portion of the Barnes Road Reserve is required for the road to comply with Planning for Bush Fire Protection. The NSW RFS, in their General Terms of Approval, state that the internal road from the development is linked into the northern end of Barnes Road to form a secondary access / egress route. They do not specify any requirements for the road reserve itself, so it is up to Council to specify any requirements to satisfy Planning for Bushfire Protection. Any changes to the access from Oxford Falls road to the site should be part of the current development application. Associated with this is an increase in biodiversity impacts, with additional clearing of native vegetation associated with widening of Barnes road required.

Based on this the biodiversity report must be updated, and a Biodiversity Development Assessment Report, in accordance with the Biodiversity Assessment Method 2016 (BAM) established under Section 6.7 of the NSW Biodiversity Conservation Act 2016 must be prepared if the BOS is triggered under the area clearing threshold.

Previous Referral Comments

Presently the biodiversity report entitled *Biodiversity Development Assessment Report* prepared by Travers Bushfire and Ecology April 2019, does not include an assessment of the bushfire Outer Protection Area (OPA). This OPA has been identified on Barnes Road Reserve in the bushfire report prepared by Travers Bushfire and Ecology in June 2016, and updated 11 April 2019. With the inclusion of the OPA it is anticipated the Biodiversity Offset Scheme (BOS) area clearing threshold will be triggered.

The biodiversity report must therefore be updated and a *Biodiversity Development Assessment Report*, in accordance with the Biodiversity Assessment Method 2016 (BAM) established under Section 6.7 of the *NSW Biodiversity Conservation Act 2016* must be prepared if the BOS is triggered under the area clearing threshold.

The *Bushland Regeneration and Biodiversity Management Plan* prepared by Travers Bushfire and Ecology April 2019 does not adequately address bushfire requirements under *Planning for Bush Fire Protection 2006* for *Zone 7 Southern Asset Protection Zone Barnes Road Reserve*.

The report is required to be updated to reflect the management requirements for an OPA under *Planning for Bush Fire Protection 2006*.

Planning for Bush Fire Protection defines management of an OPA as follows:

tree canopy cover should be less than 30%
trees should have canopy separation
canopies should be separated by 2 to 5m

shrubs should not form a continuous canopy
shrubs should form no more than 20% of ground cover

grass should be kept mown (as a guide grass should be kept to no more than 100mm in height)
leaf and other debris should be mown, slashed or mulched.

An APZ should be maintained in perpetuity to ensure ongoing protection from the impact of bush fires.
Maintenance of the IPA and OPA to the standards
given above should be undertaken on an annual basis, in advance of the fire season, as a minimum.

Referral Body Recommendation

Recommended for refusal

Recommended Natural Environment Conditions:

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

Delineation Asset Protection Zone

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the extent of the bush fire Asset Protection Zone must be surveyed and marked on ground.

The clearing of vegetation for Asset Protection Zone establishment is to be confined within Asset Protection Zone boundaries.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: Bushland Protection.

Positive Covenant - Asset Protection Zone

The establishment of an Asset Protection Zone (APZ) within the Barnes Road reserve, subject to s.138 of the Roads Act, 1993 consent as necessary, is to be subject to a Positive Covenant placed on the title of Lot 1113 in DP 752038 Barnes Road that outlines the property owner's responsibilities under the "Planning for Bushfire Protection 2006".

The applicant is required to meet Council's requirements in establishing an appropriate Positive Covenant, including but not limited to:

- i) A detailed survey plan is to be provided to Council indicating the extent of the position of the APZ by reference to the road reserve and a plan in registrable form showing the APZ.
- ii) The applicant/owner is to pay any associated fees and charges for the establishment of Positive Covenant including all legal fees and costs of registration.
- iii) The Positive Covenant is to outline the responsibilities of the property owner benefiting from the APZ including initial start-up works and ongoing maintenance in accordance with the requirements of Council and any other relevant authority.
- iv) Provide that the owner take out and maintain all necessary insurances and indemnify Council against any claims or damages arising from the works upon the road reserve in establishing the APZ and failure to maintain the APZ area.
- v) Provide that written notice by the Council can require the registered proprietor to promptly attend to any matters and to carry out works within such time as the Council may require to ensure that the APZ is maintained to the requirements of Council or any other relevant authority.
- vi) Provide for the applicant/owner to obtain consent under s.138 of the Roads Act, 1993 as necessary.
- vii) Ensure current and future owners are bound by the covenant.
- viii) If the development, the subject of this consent, does not proceed then the covenant is to be extinguished. In any event, the party with the right to vary, modify or extinguish the covenant is Northern Beaches Council.

Details are to be submitted to Council for approval and registered on the title prior to the issue of the Construction Certificate.

Reason: Fire Safety and appropriate property management.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Works Environmental Protection Plan

A Works Environment Protection Plan (WEPP) is to be prepared and must be kept in the site office. All staff must be inducted by the Project Ecologist with an induction record being maintained and available onsite at all times.

Personnel conducting the site induction will be able to:-

- (a) Be familiar with the names and contact details of relevant people and authorities in the event of any environmental or site management emergency that may arise.
- (b) Be familiar with the presence of environmentally significant areas within and surrounding the site.
- (c) Be familiar with the location of trees with hollows and the importance of tree hollows to a variety of wildlife species and the protection and significance of tree hollows.
- (d) Be familiar and aware of the presence of weed locations, spoil mounds and the potential of weed infections and weed seed propagules accidentally being introduced to the site.
- (e) Identify threatened species of fauna that may venture into the subject site.
- (f) Identify threatened species of fauna that may be cryptic such as the Red-crowned Toadlet, Heath Monitor, etc.
- (g) Be familiar with animal welfare issues and procedures should human-wildlife interactions take place during the construction phase.
- (h) Have an understanding of flora and fauna management issues.

A certificate demonstrating compliance must be prepared by the Project Ecologist and submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Bushland

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Wildlife Protection - Fencing

- i. Protective fencing is to be installed along the southern boundary of the wildlife corridor located across the northern part of the site
- ii. The fencing is to comprise a minimum 1.2m high ringlock design suitably connected to the ground to prevent entry by cats or dogs
- iii.

Details of compliance with the conditions are to be provided to the Principal Certifying Authority prior to the issue of any interim/final Occupation certificate.

Reason: Protection of the environment

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

Control of Weeds

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

Rehabilitation and maintenance

The consent holder must carry out a maintenance period of 2 years after completion of works within the 'river' or 'waterfront land' as defined by the Water Management Act 2000, including rehabilitation and vegetation management works in accordance with the Biodiversity Management Plan required under this development consent.

Reason: Environmental Protection, Monitoring and Enhancement.

No Planting Environmental Weeds

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

Monitoring Reports to be submitted to Council

Monitoring reports are to be submitted to Council in accordance with the Bushland Regeneration and Biodiversity Management Plan (Travers Bushfire and Ecology, dated 12 April 2019)

Monitoring reports are to be submitted to Council upon completion of revegetation works, prior to construction certificate and prior to occupation certificate. Post construction monitoring reports are to be submitted annually during the four year maintenance period. Monitoring reports must detail the BMP activities, work hours and locations worked within unformed Barnes Road reserve for a period of four years from commencement of construction, or until all actions are complete.

Reason: Environmental Monitoring.

Works to cease if item found

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

Tree Management in Barnes Road Reserve

No native trees on the unformed Barnes Road reserve is to be removed without written approval from Council. Management of fuel loads in the bushfire Asset Protection Zone is to Outer Protection Area standard and is to remove weeds in preference to native trees and vegetation.

Reason: To ensure bushland management

Implementation of Bushland Regeneration and Biodiversity Management Plan

All actions as listed in the Bushland Regeneration and Biodiversity Management Plan (Travers Bushfire and Ecology, dated April 2019) must be implemented at all times or until completed as specified in the plan.

Reason: To ensure bushland and riparian management

Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland and riparian protection measures are carried out according to the conditions of consent.

The Project Ecologist will provide certification that conditions relating to the Biodiversity Management Plan and/or Vegetation Management Plan and/or Soil Seedbank Translocation Plan and/or Weed Management Plan and/or Vegetation Restoration Plan are carried out. The Project Ecologist will ensure that all conditions relating to the biodiversity management of the property are fully implemented. The Project Ecologist is to be a vegetation management specialist and to have at least 4 years' experience in the management of native bushland in the Sydney region and have at least a TAFE Certificate III in Bush Regeneration or Conservation and Land Management - Natural Area Restoration.

Reason: To ensure bushland management