

Natural Environment Referral Response - Biodiversity

Application Number:	DA2023/1681
Proposed Development:	Alterations and additions to a residential flat building
Date:	18/03/2024
Responsible Officer	Stephanie Gelder
Land to be developed (Address):	Lot 2 SP 40956 , 2 / 22 - 26 Addison Road MANLY NSW 2095 Lot 3 SP 40956 , 3 / 22 - 26 Addison Road MANLY NSW 2095 Lot 4 SP 40956 , 4 / 22 - 26 Addison Road MANLY NSW 2095 Lot 5 SP 40956 , 5 / 22 - 26 Addison Road MANLY NSW 2095 Lot 6 SP 40956 , 6 / 22 - 26 Addison Road MANLY NSW 2095 Lot CP SP 40956 , 22 - 26 Addison Road MANLY NSW 2095 Lot LIC 30002100 , 22 - 26 Addison Road MANLY NSW 2095

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

AMENDED COMMENTS

A Biodiversity Impact Assessment including Tests of Significance for has been prepared and submitted with the application (Australian Ecological Services, February 2024) and concluded that the proposed works do not represent a significant impact to the Endangered population of little blue penguins (*Eudyptula minor*) and Long-nosed bandicoots of the Northern Beaches. The findings of this report are concurred with. A range of impact avoidance and impact mitigation measures have been recommended and will have to be adhered to.

No native vegetation or fauna habitat would be impacted, the development is designed, sited and will be managed to avoid any significant adverse environmental impact.

ORIGINAL COMMENTS

The proposal seeks approval for alterations and additions to a residential flat building. The comments in this referral relate to the following applicable controls and provisions:

- NSW Biodiversity Conservation Act 2016 (BC Act)
- NSW Biodiversity Conservation Regulation 2017 (BC Regulation)
- Manly LEP Clause 6.5 (Terrestrial Biodiversity)
- Manly DCP Clause 5.4.2 (Threatened Species and Critical Habitat Lands)
- Manly DCP Clause 3.3.1.a.v (Landscaping Design – bandicoot habitat)

The site includes and adjoins the 'Little Penguin Declared Area of Outstanding Biodiversity Value' (AOBV; formerly Critical Habitat) as declared under the BC Regulation. In addition, at least two known penguin nest sites occur within 10m of the proposed demolition works to the pool and terrace. The NSW Biodiversity Values Map also occurs on and adjoins the site.

In accordance with Section 7.3 of the BC Act, any development which is likely to impact upon a threatened species requires a 'threatened species test of significance' to be prepared. The test of significance provided in the SEE is not compliant with the DPE's Threatened Species Test of Significance Guidelines. The assessment does not address the endangered penguin or bandicoot populations. In addition, the guidelines require that the assessment is undertaken by someone with technical expertise and knowledge of the potentially impacted species.

A biodiversity impact assessment, including a test of significance for Little Penguins, is required to be prepared by a suitably qualified ecologist and is to address potential direct and indirect impacts to penguin nests, particularly those associated with demolition and construction works. Impacts addressed must include:

- i) additional disturbance to breeding and moulting penguins associated with demolition/construction;
- ii) noise, vibration and human disturbance associated with works;
- iii) any other potential prescribed impacts (as per Section 6.1 of the BC Reg) to the Biodiversity Values Map; and
- iv) proposed impact mitigation measures, which is likely to include staging of construction/demolition so that high impact works near penguin nests are undertaken outside the penguin breeding season.

If it is determined that the works will result in additional direct and/or indirect impacts to the AOBV, or are likely to result in a significant impact to Little Penguins or any other threatened entities, a Biodiversity Development Assessment Report (BDAR) is required to be prepared and submitted in accordance with the NSW Biodiversity Assessment Method (BAM).

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

Compliance with Ecologist's Recommendations – Pre-construction

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report/Biodiversity Development Assessment Report (Australian Ecological Services, February 2024) are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

Fencing for Wildlife Passage – Ecologist Certification

Any new permanent fencing (with the exception of swimming pool fencing) is to be made passable to native fauna through the provision of access gaps or raised fencing to provide appropriate ground clearance. Any access gaps are to be a minimum of 150mm wide x 100mm high at ground level and spaced at a minimum of 6m intervals.

The Project Ecologist is to provide written certification of compliance to the Principal Certifier prior to issue of any Construction Certificate.

Reason: To preserve wildlife corridors.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**Compliance with Ecologist's Recommendations – During Construction**

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report/Biodiversity Development Assessment Report (Australian Ecological Services, February 2024) are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

Wildlife Protection

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are

to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

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

Protection of Habitat Features – Certified by Ecologist

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

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

Compliance with Ecologist's Recommendations – Ongoing

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report/Biodiversity Development Assessment Report (Australian Ecological Services, February 2024) are to be implemented at the appropriate stage of development.

Successful establishment/initiation of ongoing biodiversity measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

Protection of Habitat Features

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

Control of Domestic Dogs/Cats

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.