

Natural Environment Referral Response - Biodiversity

Application Number:	DA2023/1681
Proposed Development:	Alterations and additions to a residential flat building
Date:	12/12/2023
Responsible Officer	Olivia Ramage
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

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 unsupported.

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

Recommended Natural Environment Conditions:

Nil.