



**Title of Proposal** - Proposed residential subdivision of 62 Hillside Road, Newport (Lot 1 DP408800)

## Section 1 - Summary of your proposed action

Provide a summary of your proposed action, including any consultations undertaken.

### 1.1 Project Industry Type

Residential Development

### 1.2 Provide a detailed description of the proposed action, including all proposed activities.

The proposed action includes the subdivision of 62 Hillside Road into four new housing lots and allows for Asset Protection Zones (APZ) (Northern Beaches Council, DA N0317/16). A shared private driveway for Lot 1 DP 408800 and Lots 21 and 22 DP 1036400 (85 Hillside Road, Newport) has already been approved for development (Northern Beaches Council, DA N0274/09). The components associated with the proposed action include the following:

- Subdivision to create four lots;
- Provision for the construction of four new Torrens Title dwellings;
- Services for power, water and stormwater management; and
- Provision for Asset Protection Zones (APZs).

See Figure 1 in Attachment 1 for the proposed works to be undertaken. Landscaping is not part of the proposed action, however native vegetation will be protected under a Vegetation Management Plan. Any landscaping that is done in the future will consist of planting only species that are not invasive to bushland, and preferably contained to pots and edged garden beds.

Council has fully assessed the proposed development and has recommended consent to DA N0317/16 for the subdivision of 62 Hillside Road into 4 residential lots, plus civil and landscaping works to 62 and 85 Hillside Road to facilitate the subdivision at 62 Hillside Road, Newport (Lots 1 and 2 DP 408800), subject to conditions (Consent attached).

For the purposes of this assessment, the 'Subject Site' includes Lot 1 DP 408800 and Lots 21 and 22 DP 1036400, as shown in Figure 1.

### 1.3 What is the extent and location of your proposed action? Use the polygon tool on the map below to mark the location of your proposed action.

Area

Point

Latitude

Longitude



62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	1	-33.647694637576	151.32106912313
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	2	-33.647687939078	151.32107180534
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	3	-33.647482518227	151.32106912313
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	4	-33.647330685108	151.32098597465
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	5	-33.647248069917	151.32098329244
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	6	-33.647245837073	151.32091623722
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	7	-33.647426697258	151.32076871572
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	8	-33.647504846604	151.32077676235
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	9	-33.647549503341	151.32083577095
62 and 85 Hillside	10	-33.647634351077	151.32074725805



Area	Point	Latitude	Longitude
Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)			
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	11	-33.647319520898	151.32036906658
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	12	-33.647053812262	151.32043343959
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	13	-33.646942169733	151.3203154224
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	14	-33.646515693941	151.32099670349
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	15	-33.64658714553	151.32168066678
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	16	-33.64739320466	151.3215653318
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	17	-33.64739097182	151.32152241645
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	18	-33.647428930098	151.32151705204
62 and 85 Hillside Road, Newport (Lot 1 DP 408800, and Lots 21 and 22 DP 1036400)	19	-33.647694637576	151.32106912313



Area	Point	Latitude	Longitude
DP 408800, and Lots 21 and 22 DP 1036400)			

**1.5 Provide a brief physical description of the property on which the proposed action will take place and the location of the proposed action (e.g. proximity to major towns, or for off-shore actions, shortest distance to mainland).**

The Subject Site is located in the predominantly residential suburb of Newport within the Northern Beaches Local Government Area (LGA). It is approximately 31 km north of the Sydney Central Business District. It is bordered by residential properties on three sides, and Attunga Reserve adjoins the Subject Site to the east (**Figure 1**). The Subject Site is located approximately 500m west of Bilgola Beach, and approximately 4km east of Ku-ring-gai Chase National Park.

The Subject Site is zoned as E4 - Environmental Living under the *Pittwater Local Environmental Plan 2014* (LZN\_017).

The Subject Site is generally vegetated with some cleared and landscaped areas surrounding an existing dwelling, derelict cottage, shed and driveway located towards the centre of the Subject Site. In the north and southern sections of the Subject Site are areas of Littoral Rainforest with a native dominated understorey. Littoral Rainforest and Coastal Vine Thickets of Eastern Australia (Littoral Rainforest) is listed as a Critically Endangered Ecological Community (CEEC) under the EPBC Act and an Endangered Ecological Community (EEC) under the NSW *Biodiversity Conservation Act 2016* (BC Act). Located around the cleared and exotic vegetation is Littoral Rainforest with a native canopy and exotic dominated understorey, which is not part of the CEEC.

**1.6 What is the size of the proposed action area development footprint (or work area) including disturbance footprint and avoidance footprint (if relevant)?**

Total lot area 0.59 ha, total works area approx 0.29 ha

**1.7 Is the proposed action a street address or lot?**

Street Address



62 Hillside Road  
Newport NSW 2106  
Australia

## **1.8 Primary Jurisdiction.**

New South Wales

## **1.9 Has the person proposing to take the action received any Australian Government grant funding to undertake this project?**

No

## **1.10 Is the proposed action subject to local government planning approval?**

Yes

### **1.10.1 Is there a local government area and council contact for the proposal?**

Yes

#### **1.10.1.0 Council contact officer details**

##### **1.10.1.1 Name of relevant council contact officer.**

Tyson Ek-Moller

##### **1.10.1.2 E-mail**

Tyson.Ek-Moller@northernbeaches.nsw.gov.au

##### **1.10.1.3 Telephone Number**

02 9970 1167

## **1.11 Provide an estimated start and estimated end date for the proposed action.**

Start date 02/2018

End date 02/2020

## **1.12 Provide details of the context, planning framework and State and/or Local government requirements.**

Development consent is being sought from Northern Beaches Council under Part 4 of the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act). At the time of DA submission,



under the EP&A Act, ecological impacts from the proposed action required approval under the NSW *Threatened Species Conservation Act 1995* (TSC Act) (repealed). The TSC Act is now replaced by the BC Act 2016. Under the BC Act, transition arrangements apply to all development application submitted or 'Substantially Commenced', where assessment may continue with consideration to the TSC Act. The proposed action is considered to be 'Substantially Commenced'.

The development has been assessed under the following state and local government legislation:

*NSW Environmental Planning and Assessment Act (EP&A) 1979, Section 79C; Pittwater Local Environmental Plan (PLEP) 2014; Pittwater 21 Development Control Plan (PDCP) 2014; State Environmental Planning Policy (SEPP) No. 26 – Littoral Rainforest; and SEPP No. 55 – Remediation of Land.* Northern Beaches Council (formerly Pittwater Council) has assessed the application under the EP&A Act, and provided consent to the application, subject to conditions (Consent attached).

### **1.13 Describe any public consultation that has been, is being or will be undertaken, including with Indigenous stakeholders.**

In accordance with the EP&A Act, Notification to Adjoining Owners (14 days) commenced 28 July 2016. Additional information was requested by Council in October 2016, and Renotification for 36 days commenced 16 December 2016. During the assessment process, it was noted that the development is considered Integrated Development (approval required from the Rural Fire Service under 100B of the *Rural Fires Act 1997*), and considers threatened species, and an additional 30 days Notification commenced 5 June 2017.

Assessment for approval under the EP&A Act has been conducted via the Independent Assessment Panel (IAP), which involves consultation.

No additional community consultation has been undertaken, nor requested by either Council or the IAP.

### **1.14 Describe any environmental impact assessments that have been or will be carried out under Commonwealth, State or Territory legislation including relevant impacts of the project.**

A Species Impact Statement (SIS) was prepared by Cumberland Ecology (2016) to address NSW assessment requirements under the TSC Act from the proposed four lot subdivision of Lot



1 DP 408800. This has been submitted to Northern Beaches Council (formerly Pittwater Council) as part of a Development Application (DA). The DA has been fully assessed by Council (consent recommended) and by the IAP.

The Subject Site has been the focus of extensive studies spanning more than fifteen years, the preparation of a number of development applications (DA), and proceedings in the NSW Land and Environment Court. In 2006, a DA was lodged for an eight lot subdivision over the entire area of 62 and 85 Hillside Road, Newport, with the proposal including construction of seven new dwellings, and retention of the existing house within one of the proposed lots. The DA was refused by Council and the decision was challenged in the NSW Land and Environment Court in 2007. The Court proceedings resulted in direction to prepare an SIS for the DA, and this included provision for a modified design, as advised by the Court appointed witnesses and Council, for a reduced footprint. This DA was ultimately refused.

In 2009 a DA was submitted to upgrade the existing driveway to accommodate the existing and potential future subdivision and new dwellings. The DA was approved by Pittwater Council (DA N0274/09), and works have commenced to clear the road alignment. The construction of the driveway will occur currently with/as part of the future works under the current DA.

An application for subdivision of one lot to create two allotments on Lot 2 DP 1036400, 85 Hillside Road, Newport was approved in 2011 by Pittwater Council (N0730/10). The new Lots are referred to as Lot 21 and Lot 22 DP 1036400 (formerly referred to as Lot 2a and Lot 2b).

**1.15 Is this action part of a staged development (or a component of a larger project)?**

No

**1.16 Is the proposed action related to other actions or proposals in the region?**

No



## Section 2 - Matters of National Environmental Significance

Describe the affected area and the likely impacts of the proposal, emphasising the relevant matters protected by the EPBC Act. Refer to relevant maps as appropriate. The [interactive map tool](#) can help determine whether matters of national environmental significance or other matters protected by the EPBC Act are likely to occur in your area of interest. Consideration of likely impacts should include both direct and indirect impacts.

Your assessment of likely impacts should consider whether a bioregional plan is relevant to your proposal. The following resources can assist you in your assessment of likely impacts:

- [Profiles of relevant species/communities](#) (where available), that will assist in the identification of whether there is likely to be a significant impact on them if the proposal proceeds;
- [Significant Impact Guidelines 1.1 – Matters of National Environmental Significance](#);
- [Significant Impact Guideline 1.2 – Actions on, or impacting upon, Commonwealth land and Actions by Commonwealth Agencies](#).

**2.1 Is the proposed action likely to have ANY direct or indirect impact on the values of any World Heritage properties?**

No

**2.2 Is the proposed action likely to have ANY direct or indirect impact on the values of any National Heritage places?**

No

**2.3 Is the proposed action likely to have ANY direct or indirect impact on the ecological character of a Ramsar wetland?**

No

**2.4 Is the proposed action likely to have ANY direct or indirect impact on the members of any listed species or any threatened ecological community, or their habitat?**

Yes

### 2.4.1 Impact table

Species	Impact
Littoral Rainforest	Clearing the Subject Site will result in the





Species	Impact
	removal of 0.05 ha of Littoral Rainforest and Coastal Vine Thickets of Eastern Australia (Littoral Rainforest). Additionally, a further 0.15 ha will be modified as part of an APZ and other purposes. The APZ will require the following: • Retention of rainforest canopy of trees, including Cabbage Tree Palms, as they do not contribute to fire behaviour when under fuels are well managed; • Shrubs sparsely separated into clumps; • Low groundcover species managed by raking to remove excess plant matter; • Excessive fuel loads on the ground surface (above 10-12mm for the soil) raked and removed from the site; and • Trees and other vegetation in the vicinity of power lines and tower lines should be managed and trimmed in accordance with the specifications in “Vegetation Safety Clearances” issued by Energy Australia (2002).
Syzygium paniculatum (Magenta Lilly Pilly)	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential habitat.
Large-eared Pied Bat (Chalinolobus dwyeri)	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential foraging habitat. Potential roosting habitat may also be impacted in the form of small caves under boulders.
Grey-headed Flying-fox (Pteropus poliocephalus)	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential foraging habitat (fruits of rainforest trees and vines). No roost camps will be impacted as none are present on or adjacent to the Subject Site.
Spotted-tailed Quoll (Dasyurus maculatus)	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential foraging habitat. The Subject Site could provide denning habitat as rock outcrops are present, although no evidence of use by the species was detected during survey.

#### 2.4.2 Do you consider this impact to be significant?

No



## 2.5 Is the proposed action likely to have ANY direct or indirect impact on the members of any listed migratory species, or their habitat?

Yes

### 2.5.1 Impact table

Species	Impact
White-bellied Sea Eagle ( <i>Haliaeetus leucogaster</i> )	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential secondary foraging habitat. No nesting habitat removed.
Fork-tailed Swift ( <i>Apus pacificus</i> )	No area of habitat removed for aerial species.
White-throated Needletail ( <i>Hirundapus caudacutus</i> )	No area of habitat removed for aerial species.
Rainbow Bee-eater ( <i>Merops ornatus</i> )	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential foraging habitat.
Black-faced Monarch ( <i>Monarcha melanopsis</i> )	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential foraging habitat.
Spectacled Monarch ( <i>Monarcha trivirgatus</i> )	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential foraging habitat.
Rufous Fantail ( <i>Rhipidura rufifrons</i> )	The loss of Littoral Rainforest will result in the removal of 0.05 ha and modification of 0.15 ha of potential foraging habitat.

### 2.5.2 Do you consider this impact to be significant?

No

## 2.6 Is the proposed action to be undertaken in a marine environment (outside Commonwealth marine areas)?

No

## 2.7 Is the proposed action to be taken on or near Commonwealth land?

No

## 2.8 Is the proposed action taking place in the Great Barrier Reef Marine Park?

No



**2.9 Is the proposed action likely to have ANY direct or indirect impact on a water resource related to coal/gas/mining?**

No

**2.10 Is the proposed action a nuclear action?**

No

**2.11 Is the proposed action to be taken by the Commonwealth agency?**

No

**2.12 Is the proposed action to be undertaken in a Commonwealth Heritage Place Overseas?**

No

**2.13 Is the proposed action likely to have ANY direct or indirect impact on a water resource related to coal/gas/mining?**

No



## Section 3 - Description of the project area

Provide a description of the project area and the affected area, including information about the following features (where relevant to the project area and/or affected area, and to the extent not otherwise addressed in Section 2).

### 3.1 Describe the flora and fauna relevant to the project area.

#### Flora

The Subject Site is approximately 1.06 ha in size, which includes 0.84 ha of native vegetation (Littoral Rainforest) and 0.22 ha of Urban Native/Exotic Vegetation. The majority of the Subject Site consists of rainforest associated species, including Cabbage Tree Palms (*Livistona australis*), mesic tree species such as Lilly Pillies (*Acmena smithii*) and *Pittosporum* sp., ferns; such as the Rough tree fern (*Cyathea australis*), vines and twiners such as *Cissus* sp. and sparse tussock grasses such as *Lomandra* sp. A total of 73 native species and 68 exotic species were recorded on the Subject Site and parts of the Study Area. The overall abundance of native and exotic species varies across the Subject Site, however, in general, native species predominate.

No threatened flora species were recorded within the Subject Site and none are considered likely to occur.

#### Fauna

Fauna habitat within the Subject Site generally consists of Littoral Rainforest vegetation with some cleared and landscaped areas surrounding an existing dwelling, derelict cottage, shed and driveway located towards the centre of the Subject Site. These areas provide potential habitat for microchiropteran bats, birds and mammals. There is extensive sandstone outcropping and boulders on the upper slopes, suitable for reptiles and potential roost sites for microchiropteran bats.

A minor stormwater drainage line is present on the south-western section of the Subject Site, although not classified as a watercourse, providing habitat for amphibians. No permanent waterbodies exist in the Subject Site, and due to the steepness of the site, the drainage line does not retain water for any significant periods after rainfall.



The canopy within rainforest habitat provides suitable foraging and roosting habitat for passerine birds, including migratory species; White-throated Fantail, Blackfaced Monarch and Rufus Fantail. Adequate understorey provides foraging and nesting habitat for small mammals, such as the Common Ringtail Possum, which can provide prey for the White-bellied Sea Eagle. Various microchiropteran bats would likely forage beneath the canopy of the rainforest, including Large-eared Pied Bat. A section of open rainforest vegetation north of the existing dwelling provides potential foraging habitat for forest owls as well as microchiropteran bats.

Sandstone outcropping and boulders on the upper slopes of the Subject Site provide some suitable habitat for reptiles, potential denning sites for Spotted-tail Quoll and roost sites for microchiropteran bats, including Large-eared Pied Bat.

The Littoral Rainforest vegetation provides some ground cover for amphibians, reptiles, and small mammals. There are also small scattered sandstone boulders present among the leaf litter.

### Threatened Species

The proposed action will also remove some potential foraging and breeding habitat for a number of threatened fauna species known from the locality and known/and or likely to use the Subject Site as part of a wider foraging range.

The threatened species with potential to occur are all highly mobile species, and are expected to utilise available habitats present on the Subject Site as part of a broad home range for individual animals passing through the area. However, none of the threatened or migratory species with potential to occur would be likely to be reliant on the habitats present as core habitat, due to the lack of recent records of the species, or evidence of habitat use.

The attached **Table 2** details the likelihood of occurrence of threatened species recorded and/or predicted to occur within a 10km buffer of the project and whether the species was determined to require additional survey to confirm likely absence from the development site. No MNES threatened flora or fauna species were observed or are considered likely to be impacted by the Project.

### 3.2 Describe the hydrology relevant to the project area (including water flows).



The development site occurs within the Sydney Metro Catchment. A minor stormwater drainage depression runs from a discharge point from the adjoining lot to the northwest, and runs through the centre of the Subject Site. This drainage line is not defined as a watercourse for the purposes of the *Water Management Act 2000 (NSW)*.

### 3.3 Describe the soil and vegetation characteristics relevant to the project area.

#### Geology and Soils

The soil landscape of the area is the Newport formation of the Narrabeen group of sandstones, some of which consist of quaternary deposits of alluvial materials, gravel, sand, silts and clay-derived particles.

#### Vegetation

The following vegetation communities have been recorded within the Subject Site:

Littoral Rainforest (varying condition); and Urban Exotic/Native Vegetation.

#### Littoral Rainforest (varying conditions) – CEEC (in part)

*Littoral Rainforest: Closed native canopy with native dominated understorey*

This community occurs throughout the northern half of the site and as a band along the southern border of the site as shown in **Figure 3**. It conforms to the description in the Commonwealth listing advice for the CEEC Littoral Rainforest and Coastal Vine Thickets of Eastern Australia, listed under the EPBC Act and the final determination for the EEC Littoral rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions, listed under the BC Act. The community also conforms to the description of the vegetation mapping unit Temperate Littoral Rainforest by Tozer *et al.* (2010). The community on site is associated with a south facing slope, and sandy soils amongst sandstone rocks.

The canopy is dominated by the tree species *Livistona australis* (Cabbage Tree Palm), *Acmena smithii* (Lilly Pilly), *Pittosporum undulatum* (Sweet Pittosporum), and *Glochidion ferdinandi* var. *ferdinandi* (Cheese Tree). Other species such as *Banksia integrifolia* (Coastal Banksia), *Ficus rubiginosa* (Port Jackson Fig), *Eucalyptus botryoides* (Bangalay), and *Allocasuarina*



*littoralis* (Forest Oak) occur less frequently in the canopy, and as emergents. Underneath the canopy a small tree layer is present, comprised predominately of *Eupomatia laurina* (Native Guava), *Synoum glandulosum* (Scentless Rosewood), *Acmena smithii*, and *Pittosporum undulatum*. The exotic tree species *Erythrina x sykesii* is present in the canopy in the southern half of the site.

A shrub layer is present in most areas dominated by *Eupomatia laurina* and *Synoum glandulosum* and juveniles of the trees *Livistona australis* and *Pittosporum undulatum*. The exotic weed species *Lantana camara* is dominant in the understorey of some areas of the site, and other species such as *Ligustrum sinense* (Small-leaved Privet) occur more sporadically. Other shrubs species present with patchy occurrences include *Wilkiea huegeliana* (Veiny Wilkiea), *Notelaea longifolia*, *Pittosporum revolutum* (Rough-fruited Pittosporum), and *Elaeocarpus reticulatus* (Blueberry Ash). Vines are common in the understorey and include the species *Morinda jasminoides* (Sweet Morinda), *Smilax australis* (Lawyer Vine), *Geitonoplesium cymosum* (Scrambling Lily).

The ground layer is dominated by ferns in most areas, the dominant species on site being *Doodia aspera* (Rasp Fern) and *Blechnum cartilagineum* (Gristle Fern), with others such as *Adiantum aethiopicum* (Maidenhair fern), *Adiantum hispidulum* (Rough Maidenhair Fern), and *Calochlaena dubia* (False Bracken Fern) occurring less frequently. Other herbaceous species such as *Pseuderanthemum variable* (Pastel Flower), *Lepidosperma elatius* (Tall Sword-sedge), *Schelhammera undulata* (Lilac Lily), and the grasses *Entolasia marginata* (Margined Panic) and *Oplismenus imbecillis* (Creeping Beard Grass) have a scattered distribution in the ground layer. Exotic weed species are common in areas that have undergone disturbance, or are close to current and former residential properties, such as the interface between the rainforest and backyards in the north of the site, and below old fibro buildings in the south of the site. These species include *Ehrharta erecta* (Panic Veldtgrass), *Asparagus aethiopicus* (Sprenger's Asparagus), and *Tradescantia fluminensis* (Fluminensis).

*Littoral Rainforest - Closed native canopy with exotic dominated understorey – Not Listed under EPBC Act*

This community occurs in the southern half of the site, and is associated with areas of the site that have undergone disturbance, and with areas along a drainage depression that are likely to have nutrient enriched soils from residential runoff. The canopy in these areas is predominately comprised of *Livistona australis*, *Glochidion ferdinandi* var. *ferdinandi* and *Pittosporum undulatum*, and to a lesser extent *Acmena smithii*. Exotic shrubs such as *Lantana camara*, *Ligustrum sinense*, and *Ochna serrulata* (Mickey Mouse) are common in the understorey, and the ground layer is dominated by exotic weed species such as *Nephrolepis cordifolia* (Fishbone



Fern), *Ageratina adenophora* (Crofton Weed), *Tradescantia fluminensis*, (Wandering Jew), *Ehrharta erecta* and *Hedychium gardnerianum* (Ginger Lily). Other exotic species such as *Solanum nigrum* (Blackberry) occur less frequently.

As the BC Act does not list condition thresholds for the listed community, this vegetation technically conforms to the community under that Act. However, as over seventy percent of the ground and shrub layers comprise exotic weed species, including “transformer” weed species such as *Lantana camara* and *Tradescantia fluminensis*, these areas do not meet the condition threshold for the listed community under the *EPBC Act*.

*Littoral Rainforest: Open native canopy with exotic dominated understorey – Not Listed under EPBC Act*

This area conforms to the BC Act listing for the community, however does not conform to the EPBC Act listing due to the lack of canopy. At the time of the site survey in 2015, the canopy consisted of several scattered *Livistona australis* individuals, and the shrub layer consisted of juvenile *Livistona australis* individuals. Vegetation for the most part was less than 1 m in height. The ground layer was dominated by regrowth individuals of native species including *Lomandra longifolia* (Spiny Mat-rush), *Commelina cyanea* (Scurvy Weed), *Oplismenus aemulus* (Basket Grass), *Calochlaena dubia*, and the vine *Cissus hypoglauca* (Water Vine), however was depauperate in native species in comparison to adjacent, upslope intact areas.

Exotic weed species were extremely common in the ground layer and consisted of juvenile individuals of the shrubs *Lantana camara* and *Ligustrum sinense*, and herbs including *Solanum nigrum* (Blackberry Nightshade), *Nephrolepis cordifolia* (Fishbone Fern), and *Ageratina adenophora*.

### **Urban Exotic/Native Vegetation – Not Listed**

This vegetation community occurs surrounding and downslope of old fibro residential dwellings on the property. The community consists of old garden shrubs, uncontrolled lawn grasses, and exotic herb species. The western extent of this community has a canopy of several large *Erythrina x sykesii*, and garden shrubs including the species *Citrus x limon* (Lemon), and *Murraya paniculata* (Orange Jessamine). Also in the shrub layer are several non-endemic tree fern *Cyathea cooperi* (Straw Treefern), and exotic weeds such as *Senna pendula* var.





*glabrata* (Cassia) and *Ligustrum sinense*, and the prostrate *Asparagus aethiopicus*.

The ground layer is dominated by exotic weed species with native species limited to scattered individuals of common species such as the grasses *Microlaena stipoides* (Weeping Grass) and *Oplismenus aemulus* (Basket Grass), the forbs *Hydrocotyle peduncularis* (Native Pennywort) and *Cotula australis* (Common Cotula), and the ferns *Calochlaena dubia* and *Asplenium australasicum* (Bird's Nest Fern), with the latter planted in a former garden bed. Weeds include the forbs *Conyza sumatrensis* (Tall Fleabane), *Acetosa sagittata* (Turkey Rhubarb), *Ageratina adenophora*, and *Crassocephalum crepidioides* (Thickhead), and the grasses *Ehrharta erecta* and *Stenotaphrum secundatum* (Buffalo Grass).

### **3.4 Describe any outstanding natural features and/or any other important or unique values relevant to the project area.**

Sandstone outcrops have been specifically retained in the Project design, and avoided for the driveway installation.

### **3.5 Describe the status of native vegetation relevant to the project area.**

Littoral Rainforest and Coastal Vine Thickets of Eastern Australia CEEC is present on the subject site, as defined under the EPBC Act.

### **3.6 Describe the gradient (or depth range if action is to be taken in a marine area) relevant to the project area.**

The Subject Site slopes steeply from the north-western side to the south-eastern boundary. There is extensive sandstone outcropping and boulders on the upper slopes.

### **3.7 Describe the current condition of the environment relevant to the project area.**

The Subject Site has previously been developed so disturbed areas already occur, predominantly surrounding the existing residential dwellings. Although remnant native vegetation is present in the form of Littoral Rainforest, some areas are highly disturbed from past clearing and presence of exotic flora species. The northern portion of the Subject Site is less degraded likely as a result of being less exposed to the disturbances mentioned above as it occurs further from previously cleared areas.

### **3.8 Describe any Commonwealth Heritage Places or other places recognised as having heritage values relevant to the project area.**



No Commonwealth Heritage Places or other places recognised as having heritage values occur within the Subject Site.

### **3.9 Describe any Indigenous heritage values relevant to the project area.**

There are no registered indigenous heritage values identified within the Subject Site. The site is not listed under Australia's National Heritage List or the NSW Heritage Act, or within the State Heritage Inventory.

*An Archaeological survey for Aboriginal sites (Numbers 62 and 85 Hillside Road) prepared by Jo McDonald Cultural Heritage Management Pty Ltd (2002) concluded:*

*No Aboriginal sites or "objects"/"relics" – nor potential areas where such relics may be located – were found on the subject land. There is thus no constraint in terms of Aboriginal heritage on the development proposal.*

### **3.10 Describe the tenure of the action area (e.g. freehold, leasehold) relevant to the project area.**

The Subject Site is owned by Cariste Pty Ltd. The Director of Cariste Pty Ltd, Mr Peter Roach, has the authority to lodge a development application in relation to the proposed development of the property.

### **3.11 Describe any existing or any proposed uses relevant to the project area.**

The Subject Site has previously and is currently being utilised for the purpose of residential occupation. As a result, part of the existing vegetation has been disturbed from clearing and presence of exotic species including planted garden species.

The Subject Site is zoned as E4 – Environmental Living, the objectives of which are:

*To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. To ensure that residential development does not have an adverse effect on those values. To provide for residential development of a low density and scale integrated with the landform and landscape. To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*



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## **Section 4 - Measures to avoid or reduce impacts**

Provide a description of measures that will be implemented to avoid, reduce, manage or offset any relevant impacts of the action. Include, if appropriate, any relevant reports or technical advice relating to the feasibility and effectiveness of the proposed measures.

Examples of relevant measures to avoid or reduce impacts may include the timing of works, avoidance of important habitat, specific design measures, or adoption of specific work practices.

### **4.1 Describe the measures you will undertake to avoid or reduce impact from your proposed action.**

#### **Avoidance**

Complete avoidance of impacts to CEEC vegetation and threatened species habitat is not possible while allowing any level of development on the Subject Site. The Subject Site has been maintained as a residence and native garden by the current owner, and weed control measures have been implemented according to this use. If development does not occur on the Subject Site, funding associated with the proposed development, earmarked to fund the management of all retained native vegetation across the Subject Site under a VMP, will be lost. The spread of 'transformer weeds' listed as a key threat to the long-term survival of Littoral Rainforest (Threatened Species Scientific Committee, 2008) is likely to continue throughout the Subject Site and adjoining lands if no development occurs.

The Subject Site has a long history of development proposals, including for the previous subdivision proposal in 2009, which was part of a Land and Environment Court case. The current layout is a reduced scale development, with four residential lots proposed, reduced from previously proposed eight lots, over the Subject Site.

A pre-DA meeting with Pittwater Council was held onsite on the 2nd of June, 2015. At this meeting, a five lot subdivision proposal was tabled, although Council feedback indicated that this could not be adequately supported on the Subject Site, due to slope constraints, traffic / parking issues, and vegetation removal. The current proposed layout has been prepared in response to the pre-DA meeting, following discussions with Council, and through co-ordination of engineering design, and ecological assessment to address the identified constraints of the Subject Site.



The current proposal layout has been configured to respond to Council's concerns with regard to parking provisions, and also locating the indicative building pads as close to the shared driveway as possible, in order to minimise vegetation clearing. This has resulted in a reduced building setbacks from the driveway than the DCP requirements.

As part of the preparation of the current DA, there has been consultation with the Rural Fire Service (RFS) to refine the road alignment, and the use of permeable road surfaces. This has included avoidance of significant rock outcrops and boulders and also mature trees, particularly Cabbage Tree Palms to the greatest extent possible.

A further reduced scale development would make the proposed development financially unviable. A detailed cost analysis has been undertaken by the landowner, including consideration of the cost of the DA preparation, and four lots is the minimum required to make the development viable. This will also allow for the greatest contribution of funds to the conservation of retained areas of Littoral Rainforest onsite, and implementation of the VMP. The burden of the cost can be shared, and there is more chance of active participation from the future owners.

There is very limited scope for reconfiguring the layout of the proposed lots on the Subject Site, due to the positioning of the approved shared driveway. Furthermore, the indicative building footprints have been located in the area of greatest disturbance on the Subject Site, which reduces the associated ecological impacts.

## **Mitigation**

Although 0.05 ha of Littoral Rainforest will be cleared, and an additional 0.15 ha modified with an APZ, the best quality habitats present in the Subject Site will be retained and protected under a positive covenant, and therefore habitat will be largely retained, and further enhanced through the implementation of a Vegetation Management Plan (VMP) and nest box installation.

The implementation of the VMP is for three years, from the date of land subdivision. A conservation trust will be established, and a portion of the sale from each lot will contribute to the funds for implementation of the VMP, and some limited future maintenance works. The VMP has been prepared for all retained vegetation across all lots in the Subject Site, including those subject to the current subdivision, and also the balance of land from previously approved DA's.



This is offered in order to maximise the value of the Littoral Rainforest retained on the Subject Site, and maintain a habitat corridor from east to west in perpetuity. The implementation of the VMP will improve the condition of Littoral Rainforest over the Subject Site and improve habitat for threatened fauna species, particularly the Grey-headed Flying-fox and Spotted-tailed Quoll. The VMP includes a monitoring programme to evaluate the success of restoration and management efforts.

Additional compensation measures include the installation of nest boxes in the retained areas of Littoral Rainforest.

In addition to measures proposed above to minimise direct impacts to biodiversity, the following measures are proposed to minimise indirect impacts during the construction phase as shown in **Table 3** (attached).

**4.2 For matters protected by the EPBC Act that may be affected by the proposed action, describe the proposed environmental outcomes to be achieved.**

Compensation strategies include the implementation of a fully funded VMP for all areas of retained native vegetation on the Subject Site. This will maintain a continuous vegetated corridor or Littoral Rainforest in the northern part of the Subject Site, from east to west, as shown in **Figure 2**. Additional measures will include the installation of nest boxes, with a focus on threatened species such as Powerful Owl and hollow-dwelling microbats. The compensatory measures will improve the condition of Littoral Rainforest over the Subject Site and improve habitat for threatened fauna species, particularly the Grey-headed Flying-fox and Spotted-tailed Quoll.

By following appropriate design of project and implementation of management measures it is not expected that the proposed development would have a significant impact on any MNES.



## **Section 5 – Conclusion on the likelihood of significant impacts**

A checkbox tick identifies each of the matters of National Environmental Significance you identified in section 2 of this application as likely to be a significant impact.

Review the matters you have identified below. If a matter ticked below has been incorrectly identified you will need to return to Section 2 to edit.

### **5.1.1 World Heritage Properties**

No

### **5.1.2 National Heritage Places**

No

### **5.1.3 Wetlands of International Importance (declared Ramsar Wetlands)**

No

### **5.1.4 Listed threatened species or any threatened ecological community**

No

### **5.1.5 Listed migratory species**

No

### **5.1.6 Commonwealth marine environment**

No

### **5.1.7 Protection of the environment from actions involving Commonwealth land**

No

### **5.1.8 Great Barrier Reef Marine Park**

No

### **5.1.9 A water resource, in relation to coal/gas/mining**

No



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#### **5.1.10 Protection of the environment from nuclear actions**

No

#### **5.1.11 Protection of the environment from Commonwealth actions**

No

#### **5.1.12 Commonwealth Heritage places overseas**

No

**5.2 If no significant matters are identified, provide the key reasons why you think the proposed action is not likely to have a significant impact on a matter protected under the EPBC Act and therefore not a controlled action.**

#### **MNES Assessed**

Littoral Rainforest is listed as a Critically Endangered Ecological Community (CEEC) under the EPBC Act.

*Syzygium paniculatum*

Grey-headed Flying-fox

Large-eared Pied Bat

Spotted-tailed Quoll

White-bellied Sea Eagle

Migratory birds; Fork-tailed Swift, Rufus Fantail, White-throated Needtail, Black-faced Monarch, Rainbow Bee-eater and Spectacled Monarch

#### **Area of CEEC / habitat required for removal is small:**

The total area of Littoral Rainforest in the Subject Site comprises of 0.84 ha. Of this, 0.61 ha consists of good quality Littoral Rainforest listed as a CEEC under the EPBC Act.





The proposed action will result in the removal of 0.04 ha of CEEC Littoral Rainforest (5%), with an additional 0.01 ha of poor quality Littoral Rainforest removed (1%) (not listed as part of CEEC). Additionally, a further 0.15 ha (17%) of the total area of Littoral Rainforest will be modified as part of an APZ and other purposes, which is made up of 0.10 ha of CEEC vegetation and 0.04 ha of poor quality examples of the Littoral Rainforest community (not listed).

The APZ will be managed as part of the conservation zone, and it is to be treated as a 'modified APZ', in terms of the retention of all canopy. The understorey management will involve fuel reduction, but not complete removal, as it is recognised that rainforest vegetation has a low fuel potential. This has been agreed to by the Rural Fire Service (RFS), as a site specific approach to reduce bushfire risk. It is not expected that the minor loss of understorey vegetation in the APZ will threaten the CEEC, as light will not be increased, and moisture will be retained to satisfy the requirements of the community.

### **Proposed action is unlikely to have a significant indirect impact on other areas of CEEC**

The proposed action will not affect the CEEC within the development site through introduction of invasive flora and fauna species. Currently exotics are already present, but will be managed under a VMP.

The proposed action will not affect the CEEC beyond the development site as it will not affect fire/flooding regimes.

The development site is not located within or nearby any National Parks or Priority Conservation Areas identified as important areas for the CEEC. Attunga Reserve adjoins the subject site, and will remain connected through the protection of a conservation corridor.

The project will not affect abiotic factors critical to the long term survival of the CEEC beyond the development site.

Impacts of the project such as groundwater or substantial alterations to surface water patterns will be confined to the development site.



## **Proposed action will not remove a significant area of habitat or significantly impact on threatened and migratory species**

A total of 0.05 ha of rainforest habitat will be removed, which represents potential habitat for a number of threatened and migratory species. This represents a very small area of potential habitat for these highly mobile species of fauna.

The threatened flora species; *Syzygium paniculatum*, has potential to occur, although it has not been recorded on the Subject Site, despite numerous surveys, and is therefore not considered to be impacted by the proposed action.

## **Council recommended consent for proposed development**

Council has fully assessed the proposed development, and has recommended Consent with Conditions for the proposed development N0317/16. The IAP deferred the final development determination, subject to provision of documentation to Council's satisfaction that the proposed subdivision will not result in significant impacts under the EPBC Act in relation to listed threatened species communities and/or populations (Council's report attached).

## **Compensation Measures:**

A VMP has been prepared for the retained Littoral Rainforest in the Subject Site. This will maintain a continuous vegetated corridor of Littoral Rainforest in the northern part of the Study Area, from east to west. Additional compensation measures include the installation of nest boxes in the retained areas of Littoral Rainforest and the implementation of the VMP. This will improve the condition of Littoral Rainforest and improve habitat for threatened fauna species.



## **Section 6 – Environmental record of the person proposing to take the action**

Provide details of any proceedings under Commonwealth, State or Territory law against the person proposing to take the action that pertain to the protection of the environment or the conservation and sustainable use of natural resources.

### **6.1 Does the person taking the action have a satisfactory record of responsible environmental management? Please explain in further detail.**

The proposed site development works, which are to be undertaken under the direction of Mr Peter Roach through Cariste Pty Ltd, have complied with relevant Council and other legislative requirements. Mr Peter Roach considers management plans and parameters for environmental protection and maintenance of water and air quality, noise, waste management, landscape and energy efficiency measures as required. Mr Peter Roach maintains a satisfactory record of responsible environmental management.

### **6.2 Provide details of any past or present proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against either (a) the person proposing to take the action or, (b) if a permit has been applied for in relation to the action – the person making the application.**

Not applicable/none

### **6.3 If it is a corporation undertaking the action will the action be taken in accordance with the corporation's environmental policy and framework?**

No

### **6.4 Has the person taking the action previously referred an action under the EPBC Act, or been responsible for undertaking an action referred under the EPBC Act?**

No



## Section 7 – Information sources

You are required to provide the references used in preparing the referral including the reliability of the source.

### 7.1 List references used in preparing the referral (please provide the reference source reliability and any uncertainties of source).

Reference Source	Reliability	Uncertainties
Threatened Species Scientific Committee (2008). Commonwealth Listing Advice on Littoral Rainforest and Coastal Vine Thickets of Eastern Australia. Department of the Environment, Water Heritage and the Arts, Canberra.	Known, reliable	None
Cumberland Ecology (2016). Proposed Subdivision of Lot 1 DP 408800, 62 Hillside Road, Newport; Species Impact Statement. Prepared for Martens and Associates	Known, reliable	None
Cumberland Ecology (2016). Proposed Subdivision of Lot 1 DP 408800, 62 Hillside Road, Newport; Vegetation Management Plan. Prepared for Martens and Associates	Known, reliable	None



## **Section 8 – Proposed alternatives**

You are required to complete this section if you have any feasible alternatives to taking the proposed action (including not taking the action) that were considered but not proposed.

### **8.0 Provide a description of the feasible alternative?**

There are no feasible alternatives, as discussed in Section 4.1.

A reduced scale development would make the proposed development financially unviable. A detailed cost analysis has been undertaken by the landowner, including consideration of the cost of the DA preparation, and four lots is the minimum required to make the development viable. This will also allow for the greatest contribution of funds to the conservation of retained areas of Littoral Rainforest onsite, and implementation of the VMP. The burden of the cost can be shared, and there is more chance of active participation from the future owners.

There is very limited scope for reconfiguring the layout of the proposed lots on the Subject Site, due to the positioning of the approved shared driveway. Further, the indicative building footprints have been located in the area of greatest disturbance on the Subject Site, which reduces the associated ecological impacts.

### **8.1 Select the relevant alternatives related to your proposed action.**

#### **8.27 Do you have another alternative?**

No



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## Section 9 – Contacts, signatures and declarations

Where applicable, you must provide the contact details of each of the following entities: Person Proposing the Action; Proposed Designated Proponent and; Person Preparing the Referral. You will also be required to provide signed declarations from each of the identified entities.

### 9.0 Is the person proposing to take the action an Organisation or an Individual?

Individual

#### 9.1 Individual

##### 9.1.1 Job Title

Director, Cariste Pty Ltd

##### 9.1.2 First Name

Peter

##### 9.1.3 Last Name

Roach

##### 9.1.4 E-mail

peterroach@bigpond.com

##### 9.1.5 Postal Address

PO Box 7099  
McMahons Point NSW 2060  
Australia

### 9.1.6 I qualify for exemption from fees under section 520(4C)(e)(v) of the EPBC Act because I am:

Individual

#### Person proposing the action - Declaration

I, PETER ROACH, declare that to the best of my knowledge the information I have given on, or attached to the EPBC Act Referral is complete, current and



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correct. I understand that giving false or misleading information is a serious offence.

Signature:.....

Date:.....

27/9/17

I, PETER ROACH, the person proposing the action, consent to the  
designation of PETER ROACH as the proponent of the purposes of  
the action describe in this EPBC Act Referral.

Signature:.....

Date:.....

27/9/17

**9.3 Is the Proposed Designated Proponent an Organisation or Individual?**

Individual

**9.4 Individual****9.4.1 Job Title**

Director, Cariste Pty Ltd

**9.4.2 First Name**

Peter

**9.4.3 Last Name**

Roach

**9.4.4 E-mail**

peterroach@bigpond.com

**Proposed designated proponent - Declaration**

I, PETER ROACH, the proposed designated proponent, consent to  
the designation of myself as the proponent for the purposes of the action described in this  
EPBC Act Referral.

Signature:.....

Date:.....

27/9/17

**9.6 Is the Referring Party an Organisation or Individual?**

Organisation



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## 9.8 Organisation

### 9.8.1 Job Title

Environmental Scientist

### 9.8.2 First Name

Carolyn

### 9.8.3 Last Name

Stanley

### 9.8.4 E-mail

cstanley@martens.com.au

### 9.8.5 Postal Address

Suite 201

20 George Street  
Hornsby NSW 2077  
Australia

### 9.8.6 ABN/ACN

ABN

85070240890 - MARTENS & ASSOCIATES PTY. LIMITED

### 9.8.7 Organisation Telephone

02 9476 9999

### 9.8.8 Organisation E-mail

mail@martens.com.au

## Referring Party - Declaration

I, CAROLYN STANLEY, I declare that to the best of my knowledge the information I have given on, or attached to this EPBC Act Referral is complete, current and correct. I understand that giving false or misleading information is a serious offence.





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Signature: *C Stanley* ..... Date: *27 Sept 2017* .....



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## Appendix A - Attachments

The following attachments have been supplied with this EPBC Act Referral:

1. 15023rp2\_newport\_vmp\_final\_23.6.16\_reduced.pdf
2. assessment\_of\_epbc\_act\_significant\_impact\_criteria.pdf
3. c\_stanley\_signature\_epbc\_referral\_170913.pdf
4. figure\_1.\_location\_subject\_site.pdf
5. figure\_2.\_proposed\_works\_subject\_site.pdf
6. figure\_3.\_tecs\_subject\_site.pdf
7. nbc\_draft\_consent\_conditions\_62\_hillside\_road\_1.pdf
8. nbc\_planning\_report\_62\_hillside\_road.pdf
9. p1\_sis\_15023rp3\_62\_hillside\_rd\_newport\_final\_23.6.16\_exec\_sum-chapt1.pdf
10. p2\_sis\_15023rp3\_62\_hillside\_rd\_newport\_final\_23.6.16\_chapt\_2.pdf
11. p3\_sis\_15023rp3\_62\_hillside\_rd\_newport\_final\_23.6.16\_chapt\_3-4.pdf
12. p4\_sis\_15023rp3\_62\_hillside\_rd\_newport\_final\_23.6.16\_chapt\_5-conclusion.pdf
13. p5\_sis\_15023rp3\_62\_hillside\_rd\_newport\_final\_23.6.16\_appendices.pdf
14. p\_roach\_signature\_epbc\_referral\_170913.pdf
15. subdivision\_plan\_p1203617ps03-r01-a400-160602ared.pdf
16. table\_2\_-\_tables\_for\_referral.pdf
17. table\_3\_-\_tables\_for\_referral.pdf