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**Sent:** 26/04/2019 7:39:44 PM  
**Subject:** RE: Application number: DA2019/0187  
**Attachments:** Objection from 36 Birubi Cres.docx;

Jordan Davies

Planning Officer

Northern Beaches Council

**RE: Application number: DA2019/0187**

On the 15 April, an objection was submitted pertaining to the proposed development DA 2019/0187 for Lot 150; DP 225585; 76 Herbert Avenue Newport, 2106 on behalf of three adjacent residents, namely;

- Amanda & John Fuller of 72 (lot 148) Herbert Avenue, Newport 2106
- Janice & John Gillham of 70 (lot 147) Herbert Avenue, Newport 2106
- Jane & Adam Fitzpatrick of 78 (lot 151) Herbert Avenue, Newport 2106

A copy of that objection is provided as Attachment A.

We are also residents adjacent to the subject property and wish to register our strong objection to the development and concur with the arguments proposed in Attachment A.

It is our understanding that an extension to the notification date has been granted by Council and we appreciate the opportunity to register our concerns.

Kind regards,

Robbie and Peter Swatman

36 Birubi Crescent,

Bilgola Plateau

0405 169 794

# **ATTACHMENT A**

**To: Northern Beaches Council**

**Attention: Development Assessment**

**Application number: DA2019/0187**

**Primary Contact: John Gillham  
70 Herbert Avenue Newport 2106  
phone 0449 552 727**

**12<sup>th</sup> April 2019**

We the undersigned, being residents adjacent to the proposed development DA 2019/0187 for Lot 150; DP 225585; 76 Herbert Avenue Newport, 2106 hereby submit our strong objection to any subdivision of the land and associated inappropriate demolition and construction activity as proposed.

We also stress our serious concerns that consideration of the application will be undertaken based on remote theoretical planning and legal requirements with little practical understanding of the area's history, geological and topographical formations. Should such lack of understanding result in approval, the potential of risks outlined below becoming a reality could have serious consequences for the safety and wellbeing of residents living below the development.

## **Overview.**

The Salt Pan basin, which rises from the waters of Pittwater to the top of the escarpment, forms a unique natural amphitheatre bordered principally by Loombah Street to the north and Herbert Avenue to the south.

The geological and topographical foundation nurtures a distinct subtropical micro climate which supports an exceptional range of vegetation from pockets of rain forest to the wet sclerophyll spotted gum forest reaching up to the summit of this ice age carved valley. The steep gradient of the incline, particularly within the borders of De Lauret Avenue and Herbert Avenue, includes a number of gully's and natural waterways many of which are not noted on any formal plan. These often dormant waterways turn into raging torrents during even short periods of storms and coastal downpours which are amplified by the funnel effect of the amphitheatric curve of the Salt Pan landscape.

## **Our submission addresses the following key issues:**

1. Significant loss of residential and environmental amenity.
2. Precedent for additional damaging subdivision.
3. Increased risk of bush fire damage.
4. Probability of increased flooding to downhill properties with possible subsidence.
5. Potential structural damage from falling trees to adjacent downhill properties.
6. Serious impact on existing Spotted Gum Forest and unique bio diversity.
7. Destructive impact on the existing native wildlife corridor.
8. Unacceptable increase in vehicular congestion in Herbert Avenue.

### **1. Significant loss of residential and environmental amenity.**

The original subdivision was planned to accommodate the sensitivity of the natural environment through the establishment of large lots with a covenant that only one main dwelling house occupy each lot. The aim was to reduce the negative effect of loss of habitat on native wildlife and to facilitate the maintenance of sympathetic husbandry of the fragile native woodlands and flora which is a key feature of this area of the Pittwater locality.

The unsympathetic imposition, through the conversion of the existing lot into two smaller “hard surface” inhabited areas, will result in an unacceptable deterioration in the natural and human social amenity. This will not only impact on the immediate area but will present a less desirable landscape particularly to the scenically attractive Salt Pan valley environment.

### **2. Precedent for additional damaging subdivision.**

The owners of the adjoining residences have already been informally approached by the owners of lot 149 indicating their desire to subdivide that lot. We believe approval for the subdivision of lot 150 will set the precedent for approval of lot 149. The consequent additional subdivision of both lots will have a catastrophic impact on not only the local amenity of native fauna, flora and residents, but as stated above, will impose an ugly scar on this section of the eastern Pittwater escarpment to those viewing from the Pittwater waterway.

### **3. Increased risk of bushfire damage and resident's safety.**

The area being considered is within the NSW Rural Fire Service designated bush fire prone area.

Residents who experienced the 1994 Pittwater western shore bushfires which originated in the Duffy's Forest area of the Kuringai National Park have firm memories of hot embers being carried across Pittwater to land on their houses at the end of Herbert Avenue. Houses were saved by the immediate action of the lower level residents to prepare guttering the day before and extinguish the embers both on the houses and the surrounding bush, using domestic hoses, as soon as they appeared.

Herbert Avenue is an exceptionally narrow street which hampers access by all vehicles most particularly large trucks and vans which of course includes NSW Fire and Rescue vehicles. Had the embers taken hold it is doubtful dangerous spot fires could have been extinguished by residents alone. The steepness of the gradient and the funnel effect of the landscape could have resulted in serious damage, even loss, to residents living above the ember zone.

The closest Herbert Avenue fire hydrant is some twenty-five metres from the proposed development area. The position of the proposed development would significantly restrict Rural Fire Service personnel from accessing the critical fire control area in the adjoining, large bushland of the Algona reserve north and north west of the development. This would not only increase the risk to lot 150 and adjoining lower properties but greatly increase the risk of serious bushfire damage to those residents living above the development particularly no's 26 to 34 Birubi Crescent.

#### **4. Probability of increased flooding to downhill properties with possible subsidence.**

The steep topography of the area contains a number of small gullies and depressions with a number of dormant watercourses. During periods of heavy downpours or continuous rain for some days these channels often become overburdened by the volume of the water flow. This results in additional seepage and residual water flowing in broad sheets across the area and onto the driveways and houses as far down as residential properties at the north eastern end of Elvina Avenue. Though this sheeting does cause minor flooding and inconvenience to lower residents from time to time, it is modified to some extent by the retarding effect of the forested area and the understory which inhabits the slope. Any removal of even a small section of the existing natural bushland to accommodate an additional dwelling through the removal of this retardant effect will increase the volume and rate of the sheeting water flow which could cause major damage to properties below the development. The extension of hard surface areas resulting from the construction of an additional dwelling with storage and access facilities will aggravate this situation even further. To argue that this can be addressed by the inclusion of appropriate guttering and surface/ subterranean drainage would indicate a total ignorance of the reality of living in this locality.

#### **5. Potential structural damage from falling trees to adjacent downhill properties.**

The reduction of understory and alteration of the land surface will have a negative effect on the wellness of the eucalypts and other species which inhabit the area immediately below the planned subdivision. A number of these trees are large and the spotted gums in particular have relatively small root systems relative to their heights. Excessive human activity including additional sheet water flow and landscape alteration or modification will increase the potential for these trees to collapse and due to the gradient they will most likely fall downhill. This will place the residents living immediately below the development in great danger for not only their properties but their personal safety. The owners of the property at 70 Herbert Avenue (Lot 147) have already experienced major damage from a large spotted gum falling from the high point of lot 149 (which is immediately below the proposed development) some years ago. The falling tree caused the roof to collapse and would have caused death or at best serious injury had the house been occupied at the time.

#### **6. Serious impact on existing Spotted Gum Forest and unique bio diversity.**

Whilst zoned residential, the area is actually one of an extremely sensitive natural environment where environmentally conscious residents, native animals and the native flora live in harmony with each other. Because of this the area remains relatively one of Pittwater's irreplaceable natural domains. Besides and because of the remaining indigenous forest and ground flora, the area is the living habitat for a range of native animals and birds. Brush Tail Possums, Ring Tail Possums, Sugar Gliders and even Native Marsupial Rats find the safety and resources to live comfortably in the area. The range of plants and trees within the area accommodates a wide assortment of birdlife including Powerful Owls, Tawney Frogmouths, King Parrots, Black Cockatoos, Swifts, Swallows and even a visiting Sea Eagle as well as the more common Noisy minors, White Cockatoos, Currawongs, Crows, Magpies, Brush Turkeys and Lorikeets. Experience in this area has shown, albeit on the periphery, expansion of the human habitat by even a minor development foot print has had a disastrous effect on the wellbeing of the existing native wild life.

## **7. Destructive impact on the existing native wildlife corridor.**

An important necessity for the survival of native ground and tree dwelling animals is the maintenance of wildlife corridors. The extension of human habitation with the associated living accoutrements such as parking facilities will have a detrimental effect on these animals. The welfare of these sensitive and vulnerable animals is of particular concern because of the position of the proposed development. This development sits immediately adjacent to and along an important wildlife corridor which links the eastern bushland ridges of Herbert Avenue to Algona Reserve, the large nature reserve to the north. Increased deaths and stress for these native animals caused by approval of this development will need to be anticipated.

## **8. Unacceptable increase in vehicular congestion in Herbert Avenue.**

Herbert Avenue is an extremely narrow street. It is essentially a lane. Free-flow, two-way traffic is not possible. The excessive number of vehicles parked the full length of the street make it extremely difficult to navigate without being forced to search for a small area to pull over to allow another vehicle to pass. This often causes damage to the vehicle. Residences with off street parking areas are in most cases limited to two vehicles yet many have two to three additional vehicles which need to be parked on the street. Service contractors with large vehicles such as those carrying out deliveries, emergency maintenance and garbage collection have extreme difficulty in guiding their vehicles safely and without damage the full length of the street. Emergency vehicles from SES, Fire and Rescue, Sydney Water and electricity companies have previously had difficulty in accessing and setting up operations in the turning circle at the end of the street. Turning large vehicles within the turning area is extremely difficult due to the number of cars parked within it. This turning circle is right at the entry point to the proposed development. In reality, should the development be approved, the resultant inadequate off-street parking specified will place even more stress on an already overburdened carriageway. If insufficient space is provided, as anticipated from experience, it is most probable excess vehicles will need to be parked on the street as presently happens with most residences. This will only add to the already unacceptable congestion to the point of increasing the risk to residents' safety because of the difficulty emergency vehicles will have in accessing their operational target in the street.

## **References:**

**NSW Office of Environment and Heritage**

**NSW Scientific Committee – Final Determination**

The Scientific Committee, established by the Threatened Species Conservation Act, has made a Final Determination to list the Pittwater Spotted Gum Forest in the Sydney Basin Bioregion as an ENDANGERED ECOLOGICAL COMMUNITY on Part 3 of Schedule 1 of the Act. Listing of Endangered Ecological Communities is provided by Part 2 of the Act.

Item 11. In view of the small size of existing remnants, the threat of further clearing and other known threats (listed in 9), the Scientific Committee is of the opinion that the Pittwater Spotted Gum Forest in the Sydney Basin Bioregion is likely to become extinct in nature in New South Wales unless circumstances and factors threatening its survival or evolutionary development cease to operate and that the community is eligible for listing as an endangered ecological community.

Note: The Committee lists at least 44 different flora species located in the Spotted Gum Forest.

## Rural Fire Service.

“The parcel of land you have selected is within a designated bush fire prone area.”

## Northern Beaches Council

“Your block (70 Herbert Avenue Newport) was identified by the previous study as being flood affected. The draft study has identified your block as being affected by the Probable Maximum Flood (PMF) level but not by the Flood Planning Level (FPL). Flooding in this area is predicted to be extremely rare however; vulnerable types of development may need to plan for these events.”

Note: this is a general assessment probable made from flat plane analysis and does not account for the possibilities noted above arising from the proposed development.

## Part 4 Principal development standards 4.1

### Minimum subdivision lot size (1) the objectives of this clause are as follows:

- (a) To protect residential character and amenity by providing for subdivision where all resulting lots are consistent with the desired character of the locality, and the pattern, size and configuration of existing lots in the locality.
- (b) to provide for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards
- (c) to provide for subdivision where all resulting lots are capable of providing for buildings that will not unacceptably impact on the natural environment or the amenity of neighbouring properties,
- (d) to provide for subdivision that does not adversely affect the heritage significance of any heritage item or heritage conservation area.

**Note:** In view of the sympathetic conservation aims of the original subdivision; the increase of flooding and fire risk to neighbouring properties, especially flooding to those below the proposed subdivision; the lack of consistency with the desired character of the locality; the unacceptable impact on the natural environment; the amenity of neighbouring properties and a subdivision that adversely affects the heritage significance of any heritage conservation area the application for this subdivision should be rejected.

### Attachment: Photographic evidence previous flooding and treefall damage (4 pages)

**Amanda & John Fuller**

**Janice & John Gillham**

**Jane & Adam Fitzpatrick**

72 (lot 148) Herbert Avenue  
Newport 2106

70 (lot147) Herbert Avenue  
Newport 2106

78 (lot 151) Herbert Avenue  
Newport 2106