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**Sent:** 29/09/2020 11:11:07 AM  
**Subject:** DA2020-0552 181 Allambie Rd  
**Attachments:** DA2020-0552 181 Allambie Rd CommFire 20200922.doc;

Please see attached submission.

To: CEO, Northern Beaches Council  
Email: council@northernbeaches@nsw.gov.au

22 September 2020

RE: DA2020/0552 Asset Protection Zones  
Integrated Development for Seniors Housing at 181 Allambie Road, Allambie Heights 2100

Dear Sir

The asset protection zone (APZ) for the development would extend into adjoining land and require the removal of bushland in Sydney Water land (to the north) and Manly Warringah War Memorial Park (MWWMP) (to the south-west) to be managed as an Inner Protection Area (IPA) in perpetuity.

The Rural Fire Service (RFS) bush fire safety authority is subject to the agreement of adjoining land owners / managers: Sydney Water and Northern Beaches Council.

We object to any agreement that would allow the APZ for this new development to be located within the Manly Warringah War Memorial Park (MWWMP) and do not support the APZ on Sydney Water land located in Manly Dam Catchment.

#### Re APZ in MWWMP

The RFS letter to Council (30 July 2019) states:

*“The above recommendations have been based upon the maintenance of an Asset Protection Zone (APZ) within Manly Warringah War Memorial Park, managed by the Northern Beaches Council to the southwest of the subject lot.”* (See info below.)

An APZ encroaches upon the Park for an existing development at 3 Martin Luther Place (Allambie Lutheran Village). This building was constructed several decades ago (in 1966) prior to the APZ requirements of the Rural Fires Act 1997 and Planning for Bushfire Protection 2006. The building abuts the site boundary and would not be permitted or approved under the current planning controls.

The building complex in Allambie Lutheran Village has the potential to be redeveloped in the future such that the APZ does not encroach upon the Park. This would allow bushland to regenerate and would restore the natural beauty and scenic amenity of this section of the Park.

The APZ requires the ongoing removal of native vegetation including trees, bushes and understorey vegetation that contribute to biodiversity, habitat and waterway protection. The APZ is a visual intrusion that spoils the natural beauty of the Park in this location.

Allowing the APZ to extend into the Park for a NEW development would perpetuate indefinitely the requirement to remove native vegetation from within the Park. It is inappropriate to allow this conflict of use to continue in perpetuity for a new development.

It is in the public interest that the State Park is protected from new development and associated APZ that will encroach upon bushland and riparian land within the Park and adjoining Crown land. In our view, it is unacceptable to impose an APZ for a new development that will adversely affect bushland, riparian land and a heritage conservation area within the Manly Dam Catchment.

### Reasons for Refusal of the APZ include:

- The existing APZ is for older buildings that have potential for redevelopment and the (partial) removal of the APZ in the Park.
- The APZ overlaps riparian land in the Park and adjoining Crown land.
- The proposed development would conflict with the long term objectives of the Park to protect native flora and fauna, biodiversity, riparian land and creeks.
- The APZ is not in the public interest and would have a long term negative impact on the environmental values of the Park and catchment.

### Council referral responses re APZ

The referral response (biodiversity) states that the extension of the APZ into adjoining RE1 zoned land is not supported and any APZ “should avoid and minimise impacts on the riparian area”.

The referral response (riparian) states: “The APZ of the proposed development extends into riparian lands, contrary to Council’s DCP and Protection of Waterway and Riparian Lands Policy.”

### Sydney Water land

The RFS letter to Council (30 July 2019) states:

*The portion of Sydney Water controlled land, situated immediately north of 181 Allambie Road Allambie Heights, shall be managed as an Inner Protection Area.*

*This shall be subject to a documented agreement, signed by all beneficiaries (Sydney Water, Allambie Heights Village Ltd and Northern Beaches Council).*

This Sydney Water land is part of Manly Dam Catchment and the trail alongside the pipeline is well used for recreation i.e. walking and cycling. The vegetation on the Sydney Water land provides a corridor link with bushland to the east and west. The removal of bushland in this location is not consistent with the protection of vegetation corridors and catchments.

### Redevelopment?

The RFS letter refers to a document: *Re: Additional bushfire information – redevelopment of William Charlton Village at 181 Allambie Road Allambie Heights (July 2019).*

The application for seniors housing (24 Independent Living Units) and a community building is for a new development with buildings that are separate from the existing William Charlton Village. The proposal is for new works rather than ‘redevelopment’ of the the existing William Charlton Village located on the eastern portion of the subject site. Is ‘redevelopment’ a basis for the application being considered as ‘infill’ development?

From: Save Manly Dam Catchment Committee Inc.

Email: savemanlydamcc@gmail.com

Information from RFS letter (30<sup>th</sup> July 2019):

*“Northern Beaches Council is bound by an agreement between Warringah Council and Allambie Luther Village with relation to the development approval for DA2004/0335 to provide an APZ identified as APZ 3 in Figure 6 – Prescribed Fire Management Zones in the document Manly Warringah War Memorial Park Fire Regime Management Plan 2006.”*

## ASSET PROTECTION ZONE (APZ) and OVERLAP in the PARK

The APZ for the proposed development will have a significant impact on natural areas within the environmentally sensitive Curl Curl Creek Catchment.

The APZ will result in the fragmentation of bushland habitat and extensive removal of vegetation, including within riparian land.

Environmental impacts relate to:

1. Land use conflict
2. Climate change and bush fire risk
3. Riparian land and creek corridor
4. Development and APZ encroachment

### LAND USE CONFLICT

“The source of bush fire that might threaten the property would most certainly be the MWWMP.”

“This large urban parkland is contiguous to the lower boundary of the site and is substantially south-west of it. Hot drying winds are likely to be westerly and will cause a fire ignited to the west to run uphill and across the contour from the south-west.”

### APZ – POINTS

The proposal will result in irreconcilable land use conflict:

- The bushland in and contiguous with the Park will continue to be the main threat of bushfire for this new development.
- Conversely, this development will be a ongoing threat to the integrity of the surrounding bushland areas.

The APZ extends outside the boundary of the site and encroaches on adjoining public land. The removal of vegetation, habitat and biodiversity will have a negative impact on the public land.

As a consequence of climate change, setbacks requirements for APZ purposes are likely to increase and result in further encroachment within the Park, including riparian land.

This scenario would be similar to the imposition on Council in 2004 (under the Rural Fires Act 1997) to provide an APZ in the Park for Allambie Lutheran Homes, which was built in 1966 prior to the setback requirement for an APZ.

The proposed development is on Crown land and the environmental impacts, including APZ requirements, are not consistent with the Principles of the Crown Land Management Act 2016.

The APZ overlap for the proposed development has implications that are different from the existing development at 3 Martin Luther Place. Is there an assessment that considers these issues?

### INCREASED RISK of BUSH FIRE

The increased risk of bushfire is likely to result in increased setbacks for asset protection in future years. If so, further encroachment of the Park would be required under the Rural Fires Act to clear more bushland as a result of this NEW development.

This scenario is not compatible with the protection of heritage conservation values within the Park.

The proposal would also impose an ongoing bushfire risk, and an onerous responsibility for bushfire management, as the Park would be the main bushfire threat to the new development.

#### CLIMATE CHANGE (Increased risk of bush fire)

Climate change is also a relevant factor [Protection of Environment Act: Precautionary Principle]

The proposal has provided a minimum APZ requirement but this will not greatly alleviate catastrophic events where bushfire emanates from the reserve. Council will be under additional pressure to clear or remove vegetation from adjoining bushland areas in the Park to reduce bushfire hazard. This will exacerbate the direct and indirect impacts on the natural environment.

#### RIPARIAN LAND (Combined Impact)

The APZ would overlap riparian land within the site and adjoining reserve. The Protection of Waterways and Riparian Lands Policy, and WDCP2011, state that asset protection zones should be avoided on riparian land.

The Council approval for the APZ overlap of 30m riparian land in the Park would be combined with the APZ encompassing the creek corridor immediately adjoining the Park.

The removal of bushland and vegetation adjoining the watercourse upstream will exacerbate the impact of the APZ in the Park.

The APZ encroachment of riparian land and the Park is required for the two apartments buildings as well as the communal building, so it would be difficult to modify the footprint in future.

#### REDUCING ENCROACHMENT

The adjoining development (at 3 Martin Luther Place) was built in 1966 and the older buildings abut the western boundary of the site. If redeveloped in future years, it is conceivable that the North West corner of the complex could be reconfigured to relocate the building footprint and avoid or reduce the APZ overlap with riparian land.

However, for the proposed development there is far less prospect of newly established buildings being relocated further east to avoid the impact on the riparian land. The proposed development would introduce a more permanent land use conflict, with the APZ encompassing the riparian zone and overlapping the Park in perpetuity.

#### NEW DEVELOPMENT

Council currently has an agreement to maintain an APZ in conjunction with 3 Martin Luther Place. However, this does not mean Council has an obligation to agree to an APZ overlap in the Park for the purposes of a NEW development. This is a different proposition with long term consequences that are likely to adversely affect the Park.

#### PUBLIC INTEREST

The removal of native vegetation in the Crown land site and adjoining public land, including the pipeline trail, for the purposes of an APZ is not in the public interest.

Legislation / Policies relate to:

1. Planning for Bushfire Protection 2006
2. Policies – Protection of Waterways and Riparian land; Water Management

3. Warringah DCP 2011 – environmental controls
4. WLEP2011 - Heritage Conservation Area (HCA)
5. Seniors Housing SEPP 2004 – Compatibility with natural environment

As such, the APZ ‘in principle’ agreement is not consistent with:

- Council’s local planning controls
- Council Policy for protecting waterways and riparian land
- MWWMP Park conservation objectives (PoM 2014).

“NBC has agreed in principle to allow AHV to manage this APZ in protection of this development.”  
(Bush Fire Management Plan Appendix 1. APZ Management Page 29 )

In the MWWMP Plan of Management (PoM) 2014 (Page 127) Fire Management Responsibility is assigned to: Park management, Council, RFS, Other agencies. The PoM does not give a private organisation the authority to manage environmentally sensitive areas within the Park.

A public authority should be responsible for the heritage conservation area. A private organisation does not have responsibility for environmental management in the Park and is more likely to have a dominant interest in clearing vegetation to assuage resident concerns about perceived bushfire risk.

#### CLEARING & FRAGMENTATION

The proposed Inner Protection Area (IPA) will involve the removal of wide swathes of native and disturbed vegetation and will severely fragment bushland areas contiguous with the Park.

The clearance of large portions of the bushland area for the purpose of Inner and Outer Protection Areas will have a significant negative impact on natural areas within Curl Curl Creek catchment.

#### **Excerpt from Bushfire Report.**

*Direct impacts include:*

*Clearing of 0.56ha (5,600 sq metres) of native vegetation (some of these areas include weed species and planted exotics but also contain native flora); and*

*0.12 ha (1,200 sq m) will be managed as an Outer Protection Areas (OPA) and will require additional clearing*

*to meet the criteria set out by the Planning for Bushfire Protection (NSW RFS 2019) document.*

*“The bushland [on site] is comprised of two (2) strips of bushland approximately 45 metres wide which are located on the lower and upper sides of a sealed access road. These two areas are currently approximately 120 metres long and being contiguous with the bushland to the west they are located at the end of a substantial, although partially managed, fire run.”*

*“The weed clearing proposed in the centre of the site will separate the bushland remnants by approximately fifty (50) metres and allow the two (2) areas to be considered as two (2) distinct fire management units. The weedy area will be managed as a native grass land. This will improve access to the remnant bushland areas for fire fuel management and for fire-fighting purposes.”*

*“The twenty (20) metre wide weedy batter will be formally managed...as an IPA and will be revegetated with native grasses and sedges”.*

*“The regenerating bushland will be managed in a fashion to remove the shrub and small tree layer to ensure that there is no connectivity between fire fuels in the grass layer and the canopy layer.”*

## **PLANNING for BUSHFIRE PROTECTION 2006**

### **3.3 Exceptional circumstances for APZs**

*Reduced APZs and the use of adjoining lands for meeting APZ requirements will only be permitted in exceptional circumstances based on the merits of the particular development.*

*For exceptional circumstances to apply, the following principles should be demonstrated:*

- *the existing form of development will obtain a better bush fire risk outcome than if the development did not proceed (eg through increased construction standards);*
- *the building line should be no closer to the hazard than neighbouring properties;*
- *the proposal is an infill arrangement and site constraints do not allow APZ requirements to be met.*

The proposed development does not satisfy several of the above principles:

- The development will not obtain a better bush fire risk outcome.
- The building line is much closer to the bush fire hazard on the subject site.
- The proposal does not satisfy the criteria for an infill arrangement. (see below).

#### **(b) APZs on adjoining lands**

*The DA must demonstrate that exceptional circumstances apply to the land to be developed prior to approval for the establishment of an easement.*

*Easements should not be considered where the adjoining land is used for a public purpose, where vegetation management is not likely or cannot be legally granted (eg...council bushland reserve...).*

The 'adjoining land' is used for a public purpose, where vegetation management within the bushland reserve is primarily for conservation. The establishment of an easement within the public reserve is not appropriate in this instance.

#### **4.2.5 SFPPs as infill**

*Alterations and additions to existing SFPP's...or redevelopment of an existing building are considered to be infill development.*

*This type of development should also seek to achieve a better bush fire risk outcome (such as improved construction standards) than if the development did not proceed.*

### **INFILL DEVELOPMENT**

The proposed development does not satisfy the above requirements for SFPP as infill:

- The proposal is for a new development: it is not for alterations and additions or redevelopment of an existing building.
- The proposed development would not achieve a better bush fire risk outcome, as it would be closer to the bush fire hazard than existing buildings and require extensive clearing of vegetation for APZ purposes.

#### **4.3.2 Specific Objectives for infill**

Proposals for infill development are to:

Specific Objectives include the following:

- *provide better bush fire protection, on a re-development site, than the existing situation. This should not result in new works*
- *being exposed to greater risk than an existing building;*
- *ensure that the footprint of the proposed building does not extend towards the hazard beyond existing building lines on neighboring land;*

The proposed development does not satisfy the above Specific Objectives for infill:

- The development would result in new works.
- The development would be exposed to greater risk than the existing buildings.
- The footprint of the proposed building would extend towards the hazard on the subject site beyond existing building lines on neighbouring land.

#### **4.2.7 Standards for Bush Fire Protection Measures for SFPP Developments**

Asset protection zones

*Radiant heat levels of >10kW/m<sup>2</sup> must not be experienced by emergency services workers aiding residents within a special fire protection purpose development. Where ember protection is not feasible, then setbacks greater than 100 metres from bushland should be adopted.*

#### **Appendix 5 PBP 2006**

- 100m A5.1

*Distances of less than 100 metres are particularly vulnerable to flame contact, radiant heat and ember attack.*

The buildings would be located 85m from bushland to the south west and 50m to the west.

- smoke A5.2

*While smoke will cause minimal damage to property, it can severely affect the health of residents. Smoke is a significant factor in areas in which aged or disabled persons reside...*

The health affects of bush fire smoke are an added risk associated with this seniors housing development, which is in close proximity to bushland.

- env aspects A5.4

*Where APZs have been incorporated as part of the development approval...the environmental aspects of the development should have already been taken into account.*

The APZ overlap for the proposed development has implications that are different from the existing development at 3 Martin Luther Place. Is there an assessment that considers these issues?

From: SAVE MANLY DAM CATCHMENT COMMITTEE

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