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Subject: REV2021/0006 - SUBMISSION

Attachments: REV2021-0006 181 Allambie Rd smdcc 20210402.doc; REV2021-0006 181 Allambie Rd CommPlan 20210402.doc; REV2021-0006 181 Allambie Rd CommFire 20210402.doc;

Re REV2021/0006

181 Allambie Rd Allambie Heights

Dear Sir/Madam

Please find attached 3 submissions from Save Manly Dam Catchment Committee.

Email address: smdcc

Regards, Ann Sharp

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REV2021/0006 (Review of DA2020/0552) - SUBMISSION
181 Allambie Road, Allambie Heights

2nd April 2021

We strongly object to the seniors housing proposal for 24 apartments and associated infrastructure. Following are OBJECTIONS to the proposed development:

Re Vegetation Removal

The requirement to maintain vegetated areas as inner and outer APZ prevents their future rehabilitation and restoration as native bushland.

The management requirement for asset protection purposes would override the catchment management of these disturbed areas to improve their condition within the bushland environs.

The imposition of the APZ also prevents / inhibits the incorporation of these areas into the Park due to the ongoing management required to maintain these areas for asset protection purposes rather than conservation.

The removal of vegetation would have direct and indirect impacts on the Park including edge effects, increased runoff, informal access etc.

The development will result in the removal of vegetation and fragmentation of habitat that is contiguous with the Park.

The removal of vegetation is being justified on the basis that the IPA overlaps 'disturbed' areas. However, if the Crown land is managed in conjunction with adjoining public land, to reduce or remove nutrients at source, these disturbed areas are capable of rehabilitation.

The APZ will impose a future ongoing management requirement that is not compatible with the restoration of disturbed areas.

Within the Crown land site, vegetation is contiguous with the Park and the restoration of bushland habitat would enhance and extend the conservation values of the Park.

[See Manly Warringah War Memorial POM 2014 Objectives and Actions]

Re Asset Protection

The APZ for the proposed development overlaps the riparian zone of Curl Curl Creek within the reserve and upstream.

The asset protection requirements for the new development will have direct and indirect impacts on the Park in perpetuity.

The development will be exposed to bush fire hazard due to the extensive area of bushland in the adjoining public reserve.

The seniors housing proposal is a SFPP development that is not suitable for bushfire prone land.

Bushfire hazard is predicted to increase due to climate change with the likelihood of an increased requirement for APZ and hazard reduction. This outcome will have a greater impact on the Park.

Climate change predictions relating to increased temperature and bushfire hazard are based on scientific evidence and need to be taken into account.

The development will be more vulnerable to bushfire due to close proximity to bushland.

The development is within a 100m buffer from existing bushland and will be more exposed to ember attack.

The proposed development will result in an ongoing land use conflict between conservation and the removal of vegetation to reduce bushfire hazard.

Re Impacts on the subject site

The development will result in the loss of mature trees within the landscaped area proposed for development.

The development will result in fragmented landscape areas that are likely to be too small for larger trees.

The proposal is for 24 three bedroom apartments on Crown land that has remained undeveloped since the initial lease was granted to the Benevolent Society in 1964 (over 50 years ago).

Subsequent studies, such as the WCMS 2004, have identified this land as environmentally sensitive.

The development will result in a significant increase in site coverage within the sub-catchment.

Impacts on the Park

Potential impacts of the proposed development include:

- Loss of habitat and connectivity due to the removal of vegetation;
- Impacts on water quality and natural areas downstream in Manly Dam Reserve

The removal of vegetation will have direct and indirect impacts on the Park, which shares a common boundary with the Crown land to the west and south west.

Impacts include informal access and encroachments of adjoining bushland areas due to the close proximity of 24 apartments.

This will be combined with loss of the landscaped open space (proposed 'development site') that currently provides space for outdoor recreation.

The 24 apartments will have 3 bedrooms and therefore a higher occupancy compared with single bedroom units in the existing complex near Allambie Road.

The proposal is an over-development of the environmentally sensitive site.

The management and rehabilitation costs associated with adverse impacts on the Park will be borne by the public.

Re Undeveloped Land

The proposed development will impact on water quality and aquatic habitat in Curl Curl Creek.

The riparian buffer on which the development is proposed has not been subject to prior development. This has protected Curl Curl Creek catchment.

The proposed development on this environmentally sensitive site will have direct and indirect impacts on the surrounding natural environment, including Curl Curl Creek.

The removal of vegetation and extent of development is not compatible with high conservation values within Curl Curl Creek catchment.

The undeveloped land at the rear of the existing seniors housing complex has provided protection for the Curl Curl Creek catchment, including the Park.

The continued survival of the native 'climbing galaxias' fish is dependent on protecting the headwaters of Curl Curl Creek from stormwater impacts associated with urban development.

The assessment report has not taken into account potential impacts on the Park and heritage conservation area that are likely to occur if development proceeds.

Numerous concerns about potential impacts have been raised in submissions but not referred to in the assessment report.

REASONS for REFUSAL include:

Site Compatibility Criteria

The proposed development is not compatible with the surrounding land uses having regard to (at least) the following criteria in SEPP(HSPD):

25 (5) (b) (ii) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,

The existing uses include the heritage conservation area in the vicinity of the proposed development. The removal of vegetation for the development and ongoing bush fire hazard is not compatible with protecting significant environmental values, which include the protection of waterways, native flora and fauna habitat.

Heritage conservation - WLEP2011 Cl 5.10

Unlike the existing seniors development, the proposal is located within a riparian buffer of Curl Curl Creek and is in close proximity to bushland on the western side of the subject site.

The subject site is up-slope of Curl Curl Creek, which is a steep headwaters creek. This increases the risk that stormwater impacts will degrade unspoiled areas of creekline downstream within the Park. The removal of vegetation and habitat within the catchment will also affect the Park.

Stormwater Drainage Issues

This matter is relevant to the assessment phase, rather than a Deferred Commencement Consent. Water Management Policy - Stormwater Quality Requirements apply.

For undeveloped land within a Group A or B Catchment, criteria and objectives include:

- *Stormwater Quality: Stormwater quality (temperature, salinity, chemical makeup and sediment loads) discharging from the development shall not impact the receiving waters.*
- *Sediment: Runoff from the development must be retained at natural discharge rates and sediments controlled at source.*
- *Hydrology: Natural flow regimes must be retained.*

These criteria have not been mentioned but are highly relevant as the stormwater will impact on Curl Curl Creek in the heritage conservation area.

APZ Overlap

PfBP 2006

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.

4.15(1) Matters for consideration — general.

The following issues are relevant, but not mentioned in the assessment report:

- (b) Likely environmental impacts – climate change & bushfire hazard
- (e) Suitability of the site – strategic planning & land use
- (e) Public interest – MWWM Park Plan of Management & boundary rationalisation

Public Interest

Public Open Space

One of the Management Actions in the Park POM (2014) is to incorporate adjoining natural areas into the Park. The subject site is Crown land in which bushland adjoins the Park on two sides. The inclusion of this area would enhance and protect the conservation values of the Park, including its native flora and fauna.

The development proposal will negate this outcome due to the clearance of vegetation and fragmentation of habitat required for asset protection purposes.

The bushland is contiguous with the Park and ideally should be managed as part of the Park, so that catchment management principles can be applied to protect the ecology. This outcome would be consistent with the POM objectives and actions; it would also be consistent with the Principles of the Crown Land Management Act 2016.

Land Use Issues

Zoning anomaly [see submission] A review of environmental zones is currently under review.

Crown land 'owner's consent' form – land use assessment section has been removed.

A Land Use assessment is no longer required prior to issuing owner's consent to submit DA.

This means that the onus is on Council to take into account land use constraints relating to the site.

Precautionary Principle

The development poses a significant threat to the conservation values of the Park and catchment.

If approved, Council will have little control over the impacts associated with this development.

The management and rehabilitation costs associated with adverse impacts on the Park will be borne by the public.

Adverse environmental impacts will leave a lasting legacy within the catchment and heritage conservation area.

It is in the public interest that the precautionary principle is applied and the development refused.

Ann Sharp

On behalf of Save Manly Dam Catchment Committee (smdcc)

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To: Northern Beaches Council
Email: council@northernbeaches.nsw.gov.au
2 April 2021

REV2021/0006 – (Review of DA2020-0552) - SUBMISSION
Address: 181 Allambie Road, Allambie Heights NSW 2100

We strongly object to the proposed development for 24 apartments, communal building, car parking, loop road and associated infrastructure. Reasons for objection include the following:

INTRODUCTION

The development application (DA2020/0552) is substantially the same as previously (DA2018/1667). The private communal building has been located further east to reduce the impact on bushland to the west. However, the communal building and asset protection zone still overlap riparian land on the subject site and in the Park.

Additional measures have also been included that are intended to reduce the overall environmental impact. However, these measures do not compensate for the significant change in land use and associated negative impacts on the natural environment.

SETBACK

The existing development at 181 Allambie Road (William Charlton Village) is set back over 100 metres from the bushland at the rear. The existing setback / land use has a three-fold function:

1. to reduce the risk of ember attack
2. to protect riparian land within Curl Curl Creek catchment
3. to provide shared use as landscaped open space

The proposed development would:

1. Be in close proximity to the bushfire hazard
2. Be located within a riparian buffer of Curl Curl Creek
3. Result in the loss of landscape open space

HISTORY

The Crown land at 181 Allambie Road is reserved for the purposes of public and semi-public use. The Benevolent Society held the lease from 1964 until 2016. In 2016 the lease was transferred to Allambie Heights Village (AHV) Ltd, the lessee of Crown land at 3 Martin Luther Place.

In 1964 the Benevolent Society built their First Village for the Aged at William Charlton Village, Allambie Heights. The Benevolent Society, founded in 1813, is Australia's first and oldest charity. In 1966 Lutheran Homes was built on the adjoining site at 3 Martin Luther Place.

During all this time, for 56 years since 1964, residents and visitors have enjoyed the amenity of the landscaped grounds at the rear of William Charlton Village. The rear lawn area also has the advantage of being away from traffic noise along Allambie Road.

The proposed development for 24 seniors housing apartments would take away this space and leave only residual pockets of landscaped areas for the outdoor use of residents. The application proposes to protect the bushland from informal access, but this is unlikely with the removal of the lawn area. The longstanding benefits of the existing landscaped open space have not been acknowledged.

LOW DENSITY HOUSING

Zone R2 Low Density Residential

Objectives of zone

1. *To provide for the housing needs of the community within a low density residential environment.*
2. *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
3. *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The development is not consistent with the objectives of Zone R2 Low Density Residential.

The landscaped open space to be developed for apartments:

1. Characterises the area as a low density residential environment.
2. Enables outdoor recreation to meet the day to day needs of residents.
3. Ensures the low density residential area is “characterised by landscaped settings that are in harmony with the natural environment”.

The proposed construction of 24 apartments on the landscaped open space will convert the character and function of the land from a ‘low density’ to a ‘medium density’ residential environment.

MEDIUM DENSITY

Building 24 luxury units on the landscaped open space will change the low density residential environment into a medium density complex consisting of three adjoining ‘retirement villages’. It will also deprive the existing residents of the outdoor recreational use of this land. The loss of open space and additional population will inevitably put more pressure on the surrounding bushland.

BUSHLAND

The bushland on the site will be affected due to:

1. Clearing and removal of vegetation
2. Fragmentation and loss of connectivity
3. Informal access and edge effects
4. Cleared corridors of native grass instead of regenerating bushland

A direct impact of the development will be the loss and modification of bushland areas.

Direct impacts include:

- Clearing of 0.56ha (5,600 sq metres) of native and disturbed vegetation for asset protection purposes.
- Additional clearing of 0.12 ha (1,200 sq m) of bushland in moderate and good condition for an Outer Protection Area (OPA)

The proposal will remove an extensive area (6,800 sq m) of vegetation contiguous with the Park.

The development will result in the loss of potential foraging habitat for threatened fauna species. “Eight threatened fauna species were observed using the site during the current and previous on-site surveys.”

The development will encroach on surrounding bushland and result in edge effects within good quality bushland.

Bushfire management will mean that, instead of restoring habitat, areas of disturbed native vegetation will be entirely removed to reduce bushfire hazard.

The removal of vegetation from 50m and 20m wide corridors and replacement with native grass will fragment bushland areas.

The bushland area on the site will become a patchwork of vegetation with cleared corridors separating bushland remnants and reducing connectivity.

The proposed sewer connection will result in the further excavation and disturbance of bushland areas within the Park.

SIGNIFICANT VEGETATION

“The subject site is surrounded by significant bushland vegetation to the west and south-west.” Bushland within and adjoining the site has been mapped as having Biodiversity Values on the Office of Environment and Heritage (OEH) site.

BUSHLAND

The impacts on the bushland is likely to be much greater than anticipated for the following reasons:

1. The perceived threat of bushfire from within the War Memorial Park and adjoining bushland.
2. The risk of ember attack from bushland, particularly within 100 metres
3. Pedestrian encroachment together with the loss of the existing lawn area

Any perceived (or increased) risk of bushfire is likely to result in the further loss of bushland and biodiversity to reduce bushfire risk.

The close proximity to bushland will increase the risk of ember attack.

A medium density development with 24 apartments and upwards of 50 residents and visitors juxtaposed to bushland will have a negative impact on the surrounding natural environment.

The seniors housing proposal is not compatible with protecting biodiversity. The proposed 5 year Biodiversity Management Plan will not prevent direct and indirect impacts, including the significant loss of native vegetation for development and asset protection purposes.

VISUAL IMPACT

The development is likely to have an adverse visual impact within Manly Dam Catchment.

- The apartments would be ‘oriented to the south to optimise views’ and are likely to be visible when viewed from vantage points within the Park.
- The removal of trees and vegetation will adversely affect visual amenity along 100 metres of the pipeline trail.

BUSHFIRE RISK

The bushfire prone land is not suitable for seniors housing. Given the catastrophic bushfires during 2019/2020 it is somewhat surprising that this DA has been re-submitted so soon after being refused in 2019. Bushfire risk associated with dry weather and hot winds is predicted to increase in the future due to climate change and its influence on national and global weather patterns.

As a consequence, setback requirements for asset protection are likely to become more onerous. Even then, the APZ requirements will only reduce bushfire risk, they will not eliminate or prevent bushfire in vulnerable locations.

The Manly Dam Reserve is acknowledged as the main bushfire risk to this development.

Under the EP&A Act the likely increased risk of bushfire associated with climate change is an additional reason to warrant refusal of the development. The Precautionary Principle needs to be applied in this instance.

If Council agrees to the APZ in the Park it is also taking on board:

1. Any future obligation under the Rural Fires Act to provide an increased APZ subject to more onerous requirements due to climate change.
2. Increased pressure on Council to undertake hazard reduction within nearby areas of the Park to reduce the actual and perceived risk to residents and property in the new development.
3. The potential liability if the new development, in close proximity to bushland, is exposed to ember attack or smoke that affects property assets or the health of residents.

ADJOINING LAND

The PfbFP 2006 requires that the APZ is contained within the subject site. To the south west, the APZ for the proposed development would encroach upon the Park for a distance of 30 metres, which encompasses a well defined creek and small waterfall at the headwaters of Curl Curl Creek.

To the north, the APZ would remove vegetation within the water pipeline corridor, which is well used for recreation – walking and cycling. The vegetation corridor provides amenity and connectivity to the east and west along the pipeline.

The Lutheran Homes development, now called Allambie Heights Village, was built in 1966, over 50 years ago. To compensate for the lack of an adequate APZ within the subject site, native vegetation has been removed from within a 30 metres width of the adjoining Park.

The close proximity of the buildings to the western boundary and the removal of vegetation within the APZ have had a very negative impact on the integrity of the bushland and scenic amenity within the Park. The APZ also overlaps the creek and riparian zone in the Park. This impact could be reduced or avoided in the future with the re-siting of the NW corner building nearest to the creek.

The proposed development should avoid any APZ overlap within the Park and riparian corridor. Prevention should apply to the future imposition of an APZ within the Park and riparian land as a consequence of new development. The overlap of the APZ onto adjoining public land is not in the public interest.

PLANNING for BUSHFIRE PROTECTION (PBP 2006)

For APZs on adjoining lands the DA must demonstrate that exceptional circumstances apply. For exceptional circumstances to apply, the extensions should be no closer to the bush fire hazard than the existing building footprint.

The proposed development is located much nearer to the bushfire hazard than the William Charlton building near Allambie Road. The existing development has a setback of over 100 metres from bushland. The PBP 2006 shows that the risk of ember attack is significantly reduced at this distance.

The APZ for the new development extends 85 metres to the south west and encompasses riparian land within the site and the adjoining Park. For new development, this is contrary to the Council's Waterways and Riparian Lands Policy, which states that APZ should be avoided in riparian land.

Currently the Council has an obligation under the Rural Fires Act 1997 to provide an APZ in the Park for the former Lutheran Homes buildings, but this obligation does not apply to new development on the subject site.

APZ OVERLAP – RIPARIAN LAND

The APZ would extend 30m into MWWMP.

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.

As a consequence, the proposed development is likely to have a greater impact on the Park than the existing development on the adjoining site at 3 Martin Luther Place.

The APZ would require the removal of vegetation within the riparian zone of the first order creek on the site and Curl Curl Creek tributary in the Park.

The removal of vegetation for inner and outer protection purposes would have a direct and indirect impact on riparian land within the site and adjoining Park.

The Protection of Waterways and Riparian Land Policy states that bushfire asset protection zones shall be maintained outside of riparian land.

CURL CURL CREEK CATCHMENT

The proposed development will be located on land identified as a riparian buffer [WCMS 2004] that protects a major tributary of Curl Curl Creek immediately downstream.

In this DA the focus is on the 'drainage lines' and mitigation measures to 'improve' water quality in this diverted waterway. However, there is barely a mention of the riparian buffer that extends across the landscaped area.

The emphasis in this DA is on the excavated channel and drainage lines that traverse the site – not on the riparian buffer, which is the land on which the development will occur.

The footprint of the development is on land identified and mapped as 'Riparian Land'. The extent of the riparian buffer is shown on the Waterways and Riparian Land Map in Warringah DCP 2011.

The Protection of Waterways and Riparian Land Policy states that development within riparian land should be avoided.

LAND USE

"The majority of the site is vegetated or turfed. A thick layer of leaf litter in the existing bushland prevents soil erosion except where disturbance has occurred."

The site is located in Curl Curl Creek catchment, and according to the Warringah Creek Management Study, is a Category A Catchment that is characterised as having a “very high ecological value; with less than 10% connected impervious area”.

Curl Curl Creek is sensitive to land use changes within the catchment. Even a small change in land use can have a significant impact on aquatic habitat.

Generally, Group A creeks can sustain very little further development before their aquatic ecosystems will change substantially, especially when they are close to natural condition and minor perturbations can have a major impact. (WCMS 2004)

The development would be located in the watershed of Curl Curl Creek immediately upstream of a steep headwaters creek.

WATER QUALITY – MEDIUM DENSITY

The development is not low density – it is a medium density development - and has a higher risk to water quality in the catchment.

Development type

“Moderately complex developments that are a medium to high risk to water quality – typically includes multi-dwelling housing (more than three dwellings) and residential subdivisions (more than three lots) in sewered areas.” (Water NSW)

Land use planning and zoning

To protect water quality, it is important to ensure zoning decisions are consistent with the physical capability of land. (Water NSW)

The WCMS (2004) recommends that development under the Seniors Housing SEPP be excluded from Curl Curl Creek catchment to protect water quality.

The R2 (low density residential) zone translation does not accurately reflect the environmental outcomes envisaged in the place based Warringah LEP 2000. If environmental studies had been taken into account, the undeveloped land would have been assigned an environmental zone to protect bushland and riparian land.

WATER QUALITY CRITERIA

Manly Reservoir is no longer used for water supply, but it is still used for primary contact recreation. Given that water can be imbibed while swimming, a water quality standard with similar indicators to drinking water, is highly desirable for health reasons.

Good water quality is important to prevent outbreaks of blue green algae in Manly Reservoir.

Tributary creeks within the catchment also sustain aquatic habitat. So a water quality standard to protect aquatic habitat is appropriate. This applies particularly to tributaries of Curl Curl Creek, which is the main inflow creek to Manly Reservoir.

In the Water Quality Management Policy, a water quality standard for aquatic habitat is applicable to Category A and B (environmentally sensitive) creeks, such as Curl Curl Creek, to protect aquatic habitat downstream.

HYDROLOGY - LANDFORM

Indirect Impacts

The potential change in hydrology and water quality “may have an indirect impact on the vegetation to the south-west of the development footprint, which could reduce water quality, increase nutrients available to downslope vegetation and potentially increase weed presence”.

“The construction phase of the proposed development will require excavation works including cutting into the existing bedrock / slope.”

“Overland flows are expected to change as a result of excavation works and new walls paths and roads.” The increased impervious surfaces will alter the hydrology of the site.

The development footprint would remove an extensive area of rock substrate and soil from the riparian buffer in the watershed of Curl Curl Creek.

The development would increase site coverage and change the runoff regime of the existing landscaped area, which allows for the infiltration of runoff and sub-surface flow.

STORMWATER

The development will be an ongoing source of urban pollution, including stormwater runoff from internal roads and car parking areas.

The stormwater management and sediment controls will not be adequate to protect aquatic habitat downstream.

Comprehensive evidence is available of silt and sediment entering local creeks. The stormwater debacle at Manly Vale Public School caused serious pollution in Manly Creek. It demonstrated that stormwater management is inadequate to protect fragile waterways and prevent pollution.

“Construction of a temporary stormwater detention basin where silted water can be flocculated and sediment removed prior to release into bushland below”.

The Stormwater Report states that "silted water can be flocculated" this is for clearing polluted stormwater during construction. This process involves using chemicals, the EPA recommended against this for the Manly Vale School Development, as it can have impacts to downstream waterways.

CONDITIONS & MITIGATION MEASURES

For sensitive catchments it is unsatisfactory for environmental outcomes to be dependent on compliance with numerous conditions that require monitoring in perpetuity.

The Precautionary Principle should apply to protect environmentally sensitive areas and to avoid development that is likely to have adverse environmental outcomes.

The mitigation measures to reduce impacts of the development will not avoid significant negative outcomes and ongoing land use conflicts with adjoining natural areas.

Mitigation measures are not adequate to prevent cumulative environmental impacts within the catchment.

ESD PRINCIPLES

The Precautionary Principle should apply to this development proposal.

Reliance on numerous conditions and monitoring tasks is likely to be ineffective in preventing adverse impacts. Conditions that rely on compliance and human intervention would have to be adhered to in perpetuity. Also, the standard controls that apply to urban development will be inadequate to protect water quality and aquatic habitat in this environmentally sensitive catchment.

ENVIRONMENT

The DA downplays the impact on the environment and suitability of the site.

The development application promotes management plans and mitigation measures post-development to 'improve' the environment (bushland and waterways). These peripheral measures will not compensate for the significant adverse impacts on the natural environment.

Management and monitoring tasks cannot be relied upon to prevent adverse impacts within Curl Curl Creek catchment during the construction and operational phases.

The consequences associated with increased development and increased intensity of use will have immediate and cumulative negative impacts on bushland and waterways in Manly Dam Catchment.

The development and APZ will have an ongoing negative impact on natural areas within the site and adjoining public land.

PUBLIC INTEREST

Public reserve

Manly Warringah War Memorial Park (MWWM Park) was gazetted as a State Park in 1971.

The Park is the only war memorial in Australia created by conserving natural bushland.

The Park is a protected unique natural area with a diversity of flora and fauna, good water quality and scenic views.

Manly Reservoir is one of the last places in Sydney where you can still swim in freshwater.

Manly Dam catchment is the *only* place in Sydney where the native Galaxius climbing fish live, and this development is in the watershed of Curl Curl Creek, which could be their very last refuge.

The protection of bushland and waterways in the Park is dependent on the protection of the surrounding natural areas, including the subject site.

PUBLIC INTEREST

Land use conflict

The development would have a negative impact on natural areas within Crown and public land, including a heritage conservation area, within Manly Dam Catchment.

The new luxury seniors housing development would be located where the main threat from bush fire is from the Manly Warringah War Memorial State Park. "The source of bush fire that might threaten the property would most certainly be the MWWMP."

The proposed development is in close proximity to bushland and vulnerable to ember attack.

The development would remove an extensive area of vegetation within Manly Dam Catchment for the purposes of asset protection.

The development would be located on a riparian buffer immediately up-slope of a steep headwaters creek in the environmentally sensitive catchment of Curl Curl Creek.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1.3 Objects of Act

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,

4.15 Evaluation

(b) the likely impacts of that development, including environmental impacts on both the natural and built, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(e) the public interest.

The development site is located immediately up-slope of a steep headwaters creek with direct connectivity to Curl Curl Creek, the main inflow creek to Manly Reservoir.

- The development is likely to result in adverse impacts on the natural environment and associated use for public open space.
- The environmentally sensitive catchment is not suitable for the proposed development.
- The development is not in the public interest.

SEPP 19—BUSHLAND IN URBAN AREAS

9 Land adjoining land zoned or reserved for public open space

the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:

(c) the need to retain any bushland on the land,

(d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and

(e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

The bushland on the subject site is contiguous with the Park and protects native flora, fauna and waterways in Manly Dam Catchment.

The proposed development will have direct and indirect effects on bushland zoned for public open space purposes. Potential impacts include:

- Erosion of soils and sedimentation, especially during the construction phase;
- Increased stormwater runoff due to an increase in impermeable surfaces;
- Loss of habitat and connectivity due to the removal of vegetation;

- Decrease in water quality and increase in nutrient loads;
- Spread of weeds and exotic plants within the bushland.

Other matters include climate change and land use conflicts that are likely to result from locating a seniors housing development in close proximity to a bushland reserve.

SEPP (HSPD) 2004 – SENIORS HOUSING

Site Compatibility Criteria

The proposed development is not compatible with the surrounding land uses having regard to (at least) the following criteria—

25 (5) (b) (i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,

The existing uses include the heritage conservation area in the vicinity of the proposed development. The removal of vegetation for the development and ongoing bush fire hazard is not compatible with protecting significant environmental values, which include the protection of waterways, native flora and fauna habitat.

Site Analysis

The SEPP(HSPD) 2004 site analysis reveals information about the surrounding land to indicate that the proposal is not compatible with the adjoining reserve and is not suitable for the site.

30 Site analysis

(4) The following information about the surrounds of a site is to be identified in a site analysis—

- (i) **Heritage features** of surrounding locality and landscape*
- (k) **Public open space:** location, use*
- (l) **Adjoining bushland or environmentally sensitive land***

The site is adjacent to:

- a heritage conservation area and natural landscape,
- public open space with significance as a War Memorial and State Park,
- bushland and environmentally sensitive land within Curl Curl Creek catchment.

The seniors housing proposal is not compatible with the environmental sensitivity of the site (as identified in WCMS 2004) or the conservation values of the adjoining public reserve.

The seniors housing proposal conflicts with the surrounding natural landscape (heritage features, public open space, bushland and environmentally sensitive land) and is not suitable for the site.

Heritage Conservation Area

“The adjacent bushland is identified as Heritage Conservation Area (HCA) being Manly Dam and surrounds.”

This Policy SEPP (HSPD) does not apply to the following:

Clause 4A (1) This Policy does not apply to land in the Greater Sydney Region if an environmental planning instrument identifies the land as being within a heritage conservation area.

The seniors housing proposal does not comply with Clause 4A(1) as the APZ overlaps a heritage conservation area within the Park.

Also relevant:

1. Potential further encroachment of APZ
2. Impact on Curl Curl Creek and riparian land

The proposal is likely to have a greater net impact on riparian land within the heritage conservation area than the existing development at 3 Martin Luther Place.

Schedule 1 Environmentally sensitive land

(Clause 4 (6) (a))

Land identified in another environmental planning instrument by any of the following descriptions or by like descriptions or by descriptions that incorporate any of the following words or expressions
(l) water catchment,

The seniors housing application does not trigger this exemption clause as there is no reference to 'water catchment' in the WLEP2011. Nevertheless, Manly Dam catchment has conservation values associated with its former function as a water supply catchment. Water quality criteria are highly relevant in order to protect aquatic habitat in Curl Curl Creek and the use of Manly reservoir for primary contact recreation. The site is identified as environmentally sensitive land (WCMS 2004).

Neighbourhood amenity and streetscape

The proposed development should—(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity...

The proposed development does not complement or sensitively harmonise with the adjoining heritage conservation area.

Development standards—building height

(4) (a) the height of all buildings in the proposed development must be 8 metres or less, and

The building height exceeds 8 metres.

WARRINGAH LEP 2011

Zone R2 Low Density Residential

Objectives of zone – include:

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposal development will replace landscaped open space that is in harmony with the natural environment and characterises the low density residential environment.

The proposal does not achieve the objective(s) of the Zone R2 Low Density Residential.

5.10 Heritage conservation

(4) Effect of proposed development on heritage significance

- *The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.*

The proposed development would have a have an initial, ongoing and cumulative negative effect on the heritage significance of the adjoining heritage conservation area.

WARRINGAH DCP 2011

The development does not satisfy the objectives in the following Development Controls.

E2 Prescribed Vegetation

To protect and enhance the habitat of plants, animals and vegetation communities with high conservation significance.

E5 Native Vegetation

To maintain the amount, local occurrence and diversity of native vegetation in the area

E6 Retaining unique environmental features

To conserve those parts of land which distinguish it from its surroundings.

The development does not the conserve riparian land, including the riparian buffer, which is a distinctive environmental feature of the site and on adjoining nearby land.

E7 Development on land adjoining public open space

Objectives include:

- *To protect and preserve bushland adjoining parks, bushland reserves and other public open spaces.*
- *To ensure that development responds to its adjacent surroundings to preserve and enhance the natural qualities of the environment.*
- *Development on land adjoining open space is to complement the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.*

Requirements include:

- *Development is to provide buffers for bushfire protection on private land, not on public land.*
- *If the adjoining parks, bushland reserves or public open space contain bushland, development is not to threaten the protection or preservation of the bushland.*

E8 Waterways and Riparian Lands

Objectives include:

- *Protect, maintain and enhance the ecology and biodiversity of waterways and riparian land.*
- *Encourage development to be located outside waterways and riparian land.*
- *Avoid impacts that will result in an adverse change in watercourse or riparian land condition.*

From: SAVE MANLY DAM CATCHMENT COMMITTEE

Email: savemanlydamcc@gmail.com

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

2nd April 2021

SUBMISSION to REV2021/0006 (Review of DA2020/0552)
Integrated Development for Seniors Housing at 181 Allambie Road, Allambie Heights 2100

We strongly object to the development proposal, which is on bush fire prone land adjoining a high conservation bushland reserve, to the west and south west.

RE APZ and OVERLAP with ADJOINING LAND

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 the future management and protection of 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 (30th 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.”

RE ASSET PROTECTION & BUSHFIRE HAZARD

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 $>10\text{kW/m}^2$ 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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