
Sent: 12/02/2018 5:39:12 PM
Subject: Fwd: ATT Daniel Milliken - Submission DA2018/0149 - Re Boarding House Development 60 Binalong Avenue Allambie Heights
Attachments: Submission_SlaterRE_DA2018_0149_12Feb2018.pdf;

Dear Daniel

please find attached my submission regarding DA2018/0149 pertaining to a series of objections to the development of a Boarding House at 60 Binalong Avenue Allambie Heights.

Would you note that this submission (PDF attached) supercedes that sent from me on 10 February 2018 and Word Version sent today at 1:14pm.

Can you please ensure that this submission (PDF attached) is published with documents pertaining to the DA on the council website, and is appropriately noted for due consideration by the council.

Kind regards

John Slater
Owner
16 Jennifer Avenue
Allambie Heights NSW 2100
Australia

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Allambie Heights NSW 2100

RE: DA2018/0149 – 60 Binalong Avenue, Allambie Heights

Submission to Warringah Council

12 February 2018

Dear Sir / Madam

**Objection to the DA2018/0149
Proposed Boarding House, 60
Binalong Avenue Allambie Heights.**

2011 No 649

Warringah Local Environmental Plan 2011

Clause 2.8

Land Use Table

Part 2

I wish to make a submission regarding the development application of 60 Binalong Avenue Allambie Heights, which is a proposed 36 Occupancy Boarding house.

As an adjacent resident living in 16 Jennifer Avenue Allambie Heights, it is highly irregular that council has not bothered to notify me of this impending application. This is disappointing.

After careful consideration of the DA, and with respect to the Warringah LEP, State Government Policy on Affordable housing, Planning for Bushfire Protection 2006 requirements for all development applications, and Australian Building Code definitions and requirements, this submission strongly encourages Northern Beaches Council to not provide consent to allow this DA to proceed.

My objection is based on the stated intent of the Warringah LEP of 2011 and the State Environmental Planning Policy (affordable rental housing) 2009, and a significant error in the DA that assesses incorrectly Bushfire Protection for the wrong category of building. In addition, the approval of consent for this dwelling would represent an affront to all adjacent and surrounding ratepayers, who for many years have complied harmoniously with all

4 Prohibited

Any development not specified in item 2 or 3

Zone R2 Low Density Residential

1 Objectives of zone

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

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Places of public worship; Recreation areas; Respite day care centres; Roads; Veterinary hospitals

4 Prohibited

Any development not specified in item 2 or 3

development laws., including the overarching Objectives for zone, as stated in the Warringah LEP 2011, that the area is low density.

- 1.) First the relevant section of the LEP is included in the graphic above. It is noted that a Boarding house can be accommodated in R2 Low Density Residential Area, **providing as outlined in section 3 of the LEP shown, that it achieves consent to do so.**

It is important to consider that “permitted with consent” decisions cannot ignore the clearly stated objectives of the zone (section 1) that make it abundantly clear that dwellings are intending to be low density residential environments. A 36 bed boarding house on an existing block of land, previously occupied by a single dwelling, is to a reasonable person a development that is not in keeping with section 1 objectives of low density. It represents a gargantuan shift from the norm and surrounding low density dwellings. A development on a smaller scale would not be such an obvious affront to low density.

- 2.) Second, and strongly related to the surrounding neighbourhood being low density, the local infrastructure, roadways, and nature strips are typified as low density streetscapes. Currently there are no sealed footpaths, abundant trees overhang nature strips and the roadway is designed for low volume traffic with infrequent legal parking on the street. It can be demonstrated that this development severely impacts on these current council provided and ratepayer funded infrastructure aligned to low density. Alternative low density dwellings, including a boarding house that would be of a vastly smaller scale, would not cause such an impact. Specifically, the issues are as follows:

- a) Unlike other boarding house developments in Sydney that strategically located close to transport hubs like railway stations and main roads that allow for high frequency public transport, this high-density development is located in a low frequency irregular public transport environment. This is at odds with Department of Planning and Environment's own requirements that must be met for Boarding Houses sort in R2 Low Density Areas.

As per the Department of Planning and Environment Policy regarding Affordable Rental Housing 2009, <http://www.planning.nsw.gov.au/~media/D7796C1818794D238F49F77F2D792365.ashx>, a key criteria of allowing consent for a Boarding House is the following:

“Boarding houses are permissible in R2 Low Density Residential zones in locations close to public transport services:

(a) Sydney Region

■ Within 800m walking distance of a railway station or a Sydney Ferries wharf;

■ Within 400m walking distance of a light rail station;

or

■ Within 400m walking distance of a bus stop **used regularly** between 6am and 9pm Monday to Friday, and 8am to 6pm weekends.” (Emphasis added).

For the proposed Boarding house only 1 of these conditions is partially met.

This DA is located within 400m walking distance of bus services only.

However, the frequency of timetable services verified by NSW transport is clear evidence that bus services are infrequent, and typified as only regular between 6am – 8am and 4-7pm for city services Monday through Friday. In comparison to other timetables services serving high density areas public transport is infrequent and irregular in Allambie Heights.

The claim within the DA that public transport is available via 280, 142, and E66 bus routes, fails to acknowledge that capacity (via frequency and bus size) on these routes has not changed in decades, and furthermore services are limited and hardly as regular as Department of Planning guidelines intend for assisting in servicing the needs of residents of Boarding houses. Current public transport arrangements struggle to cope with Allambie’s growing population. As stated, the E66 does not operate on weekends and only operates at morning and pm peak times. The 142 / 280 frequency out of peak times and on weekends at best is hourly. According to the Department of Planning and the Environment, people to whom the Affordable Rental Housing policy is designed to help with more affordable housing are people with lower incomes in essential services such as, nurses, policemen etc. It is likely that such residents will work in shift roles and have to out of practically be dependent upon car transport due to the inflexibility and irregularity of public transport servicing Allambie Heights.

- b) The DA does not adequately allow for increased car parking for both residents and visitors in the surrounding streets. There is only 9 identified off-street parking spaces for 35 lodgers and a manager. Whilst these identified off-street parking guidelines are aligned to Department of Planning Guidelines for Boarding houses, as per section 2a above of this submission however, those guidelines specifically mandate close proximity to “regular” public transport which negates the need for car transport. Again regularly public transport can be proven to not be the case for Allambie Heights. Furthermore, it is not uncommon for people to own or have access to a car, and given the very infrequent / irregular public transport, should all residents require parking, this property will add 27 cars to the surrounding streets, which already has a substantial volume of cars parked on it. Add to that the realism of lodgers having visitors and the problem of increased traffic and demand for on-street parking is significantly worse.
- c) The inevitable frequency of much-increased car movements with this DA in such a quiet low density street has not been considered, and council should

consider the safety aspects of effectively doubling the volume of traffic on Jennifer Avenue, Nargong Road and Binalong Avenue. The open public space park between Jennifer Avenue and Nargong Road is frequently used by families and children who could be at risk of accident with the significantly increased traffic.

- d) Associated with the safety risk of increased traffic and the inevitable increased demand for on-street parking due to the inadequacy of off-street parking (points above), council should take particular note, that none of the affected streets (Jennifer Avenue, Nargong Road and Binalong Avenue) has sealed public footpaths. The nature of the streetscape, with many low hanging trees on the grassed nature strips in front of properties, means that pedestrians and dog walkers, frequently have to take to the roadway to walk along the streets. These people are at real risk of car-pedestrian accident if the increased demand for on-street parking forces them out of necessity to walk further into the roadway proper. Again the streetscape as it currently is, is adequate for low density neighbourhood characteristics. This infrastructure has not been designed to stretch to high capacity / high density dwellings.
- 3.) That the “application is made under State Environmental Planning Policy (Affordable Rental Housing) 2009” should be reviewed by council with a degree of caution and scepticism, as many contemporary media articles have investigated recent developments that have found that Property Developers are making a mockery of the intent of affordable housing and are charging exorbitant rents for boarding house accommodations. The media has found through investigative journalism that boarder houses are a loop hole in the planning law that allows a developer to essentially build a high occupancy dwelling in a low density area. <http://www.smh.com.au/.../500-to-rent-a-boarding-house...>
- 4.) A key characteristic of a low density neighbourhood is a quiet family location. The location of 36 residents on an existing block of land, with obvious visitors will concentrate a significant amount of noise which again is not in keeping with the objectives of the LEP re low density.
- 5.) Whilst it could be highly speculative to affirm that adjacent owners to the proposed Boarding House may see their investments in their own properties suffer significant losses with a high density development in a low density area, what is not without argument is the nature of such a significantly high capacity dwelling obviously dwarfs surrounding low density properties. For all intents and purposes according to the plans supplied in the DA, the proposed Boarding house has the street presence of a medium sized block of flats. Again this is not in keeping with the scale size of existing dwellings adjacent and in the neighbourhood that are bonafide low density. The size of the structure, regardless of its design, dominates the streetscape. If

consent was to be approved, it is not unreasonable to consider that future buyers of surrounding properties would view this section of Allambie Heights to be significantly different to the more obvious low density streets of Allambie Heights. Approval of such consent affords conveniences of profit for the developer, at the opportunity cost of possible future financial risk of many other neighbours. Such a situation would not only be obviously unjust, it would only arrive at the manifestly inconsistent application of ignoring the overarching low density goals for the area, and dwellings built consistently within the full extent and intent of the LEP.

6.) The DA includes a Building Code of Assessment Report (BCA)

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadAppPropDoc.ashx?id=jmPiYwoad3A%253d>. This BCA on page 6 (image below)

clearly and correctly identifies the new boarding house as a class 3 building as it is greater than 300m² as per the National Construction Code ACBC.

<http://www.abcb.gov.au/Resources/Publications/Education-Training/Building-classifications>

Page 6 of the BCA Report submitted with the DA

2.2 Classification (Clause A3.2)

The building has been classified as follows.

Table 1. Building Classification

Class	Level	Description
7	Basement	Car parking and Laundry
3	Ground Floor – Level 1	Residential SOU's and Common Areas

2.3 Effective Height (clause A1.1)

The building has an effective height of less than 12 metres.

2.4 Type of Construction Required (Table C1.1)

The building is required to be of Type C Construction.

Due to the concession available in Clause C1.5 of the BCA.

2.5 Floor Area and Volume Limitations (Table C2.2)

The building is subject to maximum floor area and volume limits of:-

Class 7a	Maximum Floor Area	2,000m ²
	Maximum Volume	18,000m ³
Class 3	The Class 3 portions of the building are not subject to floor area and volume limitations of C2.2 as Table 3 of Specification C1.1 and Clause C3.11 of the BCA Regulates the compartmentation and separation provisions applicable to buildings, or building portions, of Class 3 classifications.	

The Bushfire Assessment report contained within the DA

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadAppPropDoc.ashx?id=6SaxY6sbJbA%253d> does not provide a classification for the new boarding house. The report correctly identifies however “Remanent Forest” as

a bushfire risk which it describes as “Rainforest” on page 7 to the South / South East of the property.

Problematically in utilising the Planning for Bushfire Protection 2006 guidelines with respect to Determining Asset Protection Zones, the DA’s Bushfire Assessment report on page 10 utilises table A2.4 from the Fire Protection Policy (image below of these guidelines).

https://www.rfs.nsw.gov.au/_data/assets/pdf_file/0003/4395/Planning-for-Bush-Fire-Protection-2006-Appendix-2.pdf

However, these requirements are only for class 1 and 2 buildings.

From appendix 2, p58, Table A2.4 Planning for Bushfire Protection 2006 guidelines relied upon in the DA’s Bushfire Protection Report

Vegetation Formation	Effective Slopes				
	Upslope/Flat	>0°-5°	>5°-10°	>10°-15°	>15°-18°
Rainforests	10	10	15	20	25
Forests	20	25	35	50	60
Woodland (Grassy)	10	15	20	25	30
Plantations (Pine)	20	25	30	45	50
Tall Heath (Scrub)	15	15	20	20	20
Short Heath (Open Scrub)	10	10	10	15	15
Freshwater Wetlands	10	10	10	15	15
Forested Wetlands	15	20	25	35	45

Page 9 of the DA’s Bushfire Assessment report (image below) you can clearly see the reference to Table 2.4 of Planning for Bushfire Protection 2006 guidelines above and the 20m protection zone derived from this report.

4. Bushfire risk assessment

a) The extent to which the development is to provide for setbacks and APZ’s

Table 1: Reference to *Planning for Bushfire Protection 2006* Table A2.4, minimum specifications for asset protection zones (m) for residential and rural residential subdivision.

Direction	FDI	Vegetation classification	Effective slope	Required APZ with reference to Table A2.4 in PBP	Actual distance to classified vegetation
North	100	No hazard >140m	N/A	N/A	N/A
East	100	No hazard >140m	N/A	N/A	N/A
South (Southeast)	100	Remnant Forest	Downslope >10-15 degrees	20m	23m
West	100	No hazard >140m	N/A	N/A	N/A

Summary: Asset protection zones can be provided for in excess of the requirements of Table A2.4 of PBP.

Page 11 of the DA's Bushfire Assessment Report showing 23m distance to the Remnant Forest

Table 2; reference AS 3959, 2009 table 2.4.2

Determination of the category of bushfire attack for the site, and subsequent required building standards.

Direction	Distance to classified vegetation	Vegetation Classification	Assessment of effective slope	FDI	Bushfire Attack Level
North	>140m	N/A	N/A	N/A	BAL-19
East	>140m	N/A	N/A	N/A	BAL-29
South (Southeast)	23m	Remnant Forest	Downslope >10-15 degrees	100	BAL-29
West	>140m	N/A	N/A	N/A	BAL-19

Summary: Based upon the relevant provisions of PBP the anticipated radiant heat attack for the site is <29kW/m² and the subsequent minimum construction standard is BAL-29 AS 3959- 2009.

The principle of shielding allows for the next lower BAL level than that determined for the site to be applied to an elevation of the building where the elevation is not exposed to the source of bushfire attack. In this instance, the east and south elevation must be BAL-29, and the north and west elevations can be reduced by one level to BAL-19.

[There can only be a reduction of one BAL level and this can only apply to the elevation directly opposite the exposed side]

The Planning for Bushfire Protection 2006 guidelines clearly state on page 57 that all class 3 buildings are to use table A2.6 (shown below). Based on the effective slope identified in the DA and the defined Remnant Forest "Rainforests" adjacent the property to the South / South East, the minimum setback for this property is actually 60m not the stated 20m.

Image below Table A2.6 from the Planning for Bushfire Protection 2006 guidelines

Vegetation Formation	Effective Slopes				
	Upslope/Flat	>0°-5°	>5°-10°	>10°-15°	>15°-18°
Rainforests	30	40	50	60	65
Forests	60	70	85	100	100
Woodland (Grassy)	40	50	60	70	75
Plantations (Pine)	50	60	70	85	95
Tall Heath (Scrub)	45	50	55	60	65
Short Heath (Open Scrub)	35	35	40	45	45
Freshwater Wetlands	35	35	40	45	45
Forested Wetlands	50	60	75	90	95
Semi-Arid (Woodland)	30	35	40	45	50
Arid Shrubland	30	35	40	45	45
Alpine Resorts	(see page 31 and Table A3.5 on page 66)				

Based on this error, the DA for the boarding house, a class 3 property as defined in the DA's BCA, does not comply with the 2006 Planning for Bushfire Protection guidelines, as the property is located too close to the Remnant Forrest for adequate asset protection zone. On this basis alone the DA should be rejected.

In conclusion the consent required for this Boarding House development application should be rejected by council as:

- i. Its sheer scale size, street presence, and impact on low density surrounding infrastructure are completely incompatible with the overarching intent of the LEP regarding the nature of low density housing in Allambie Heights.
- ii. There are a number of safety concerns regarding increased traffic flow and interaction with pedestrians, which have not been adequately addressed in the application, and the streetscape infrastructure is simply not designed for such a high capacity / high density dwelling.
- iii. That the proven public transport irregularities for Allambie Heights, are at odds with State Environmental Planning Policy (Affordable Rental Housing) 2009 policy that requires much more regular public transport to allow Boarding Houses within R2 Low Density zoned areas.
- iv. That the application, if successful, would be a manifestly unfair impact upon the rest of the community abiding by developments that are low density, and serves ultimately to serve the profiteering of a single developer over community concerns and many other home owners.
- v. That the application should be rejected on the basis that the Boarding house, a class 3 building does not have an adequate asset protection zone from Bushfire risk to the adjacent South/ South Eastern Remnant Forest.
- vi. That it is doubtful from contemporary media evidence that Boarding Houses built under the auspices of providing beneficent affordable housing, and often via securing up to \$300,000 taxpayer funding to do so, actually deliver affordable housing.

Kind regards

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B.Ec.Hons. Grad.Dip.Hlth.Ec& Eval.