
From: Peter Galvin
Sent: 6/12/2021 1:33:27 AM
To: Council Northernbeaches Mailbox
Subject: Submission DA2021/2097
Attachments: 918 Submission DA2021_2097_ 051221.pdf;

For the attention of Mr. Nick England

Mr. Nick England
Northern Beaches Council
PO Box 82
2108 Manly NSW 1655

Peter Galvin
912 Barrenjoey Rd
Palm Beach NSW

By Email 05 December 2021

Re: DA2021/2097 Submission - 918 Barrenjoey Rd Palm Beach

Dear Mr England,

Whilst many aspects of the proposal are supported and do have merit including the use of sympathetic finishes and dark earthy tones, the proposal falls short of meeting environmental and community expectations. This development opportunity should seek to protect and enhance the natural environment in alignment with the Local Environment Plan (LEP) & Development Control Plan (DCP).

1. Clearing of Protected Vegetation

This site contained extensive Threatened Species. These included the Endangered Ecological Community (EEC) of Pittwater Spotted Gum Forest (PSGF) and Littoral Rainforest species that had remained undisturbed and protected since the original house was constructed in the 1950's.

Since the recent purchase of the property, excluding the mature trees, the entire PSGF & Littoral Rainforest communities on the site of 918 and the rear portion of 920 have been removed and poisoned. This occurred in breach of a number of protective instruments and without consent creating irreversible impact on the established PSGF and Littoral Rainforest communities. These communities had received ongoing protection by previous custodians of the site since the 1920's subdivision.

The geotechnical site inspection was conducted on (13 Aug 2021) and arborist site inspection was conducted (18 Aug 2021). The bulk of the clearing was conducted between Sep 4 & Sep 12 immediately prior to the finalisation of the bushfire report between 13-15 Sep 2021. The DA was then lodged on 16 Sep 2021.

This unauthorised clearing has caused irreversible damage to the EEC and risks misrepresenting professional reports that have been supplied to support the application when the site was in its native state. Professionals such as geotechnical engineers and arborists have now provided reports that do not align with actual site conditions that existed when their reports were prepared for development assessment.

It is important the information supplied is accurate to maintain the integrity in the assessment process and ensure cascading errors do not perpetuate themselves and referring parties are able to rely upon reports with confidence.

Tree Removal & Controls

This DA proposes the removal of four (4) trees. Three (3) within the site and one (1) on the boundary of 912/920. This outcome would result in the 95% elimination & despoiling of the PSGF and Littoral Rainforest communities.

A review of the aerial mapping images shows the heavy impact and tree canopy loss that would occur if these trees were removed. In my almost 30 years here it is unprecedented. Dark Gully is well known for its high biodiversity and critical habitat for many species including the Long Nose Bandicoot and Powerful & Boobook Owls that inhabit the locality mapped as active habitat. Nesting hollows created by these mature trees provide critical habitat that young replacement trees cannot replicate. Removing mature trees interrupts & stops this important ecological process.

This proposal fails to meet the requirements of the LEP and DCP. In particular, **B4.22 Preservation of Trees and Bushland Vegetation** not only seeks to protect trees and vegetation but to enhance the EEC. And critically important on sloping sites subject to landslip, such as this site, is to maximise site stability. This is outlined in B4.22 of the DCP and the supplied geotechnical report. These should be respected.

B4.17 Littoral Rainforest, amongst other state and Commonwealth legislation protecting vulnerable flora and fauna, seeks the conservation, regeneration and restoration of Littoral Rainforest species that were present on the site including a number of old slow growing Burrawang Palms (*Macrozamia Communis*) and Cabbage Tree Palms (*Livistona Australis*).

2. Arborist Report

I hold the view the Arborist report lacks credibility. By way of example, Arborist Report V1 (DA2021/1664) tree No. 3 (Red Bloodwood) was considered "low landscape and low retention value and a priority for removal". Yet, in Report V2 for this DA, the same tree is now a priority for protection.

The author's commentary is generally positive about the health and vigor of the trees but bluntly ends with "This tree is considered a priority for removal". The author makes no sound case on tree health or personal safety grounds to justify removal. Every tree has root incursion by proposed development as the main reason for removal. In my opinion, that is not in alignment with the desired outcomes of the Pittwater DCP 4.22 Preservation of Trees and Bushland Vegetation and should trigger a non compliance.

The report contains a serious flaw by contradicting the S.U.L.E tree assessment methodology. The author's assessment classifies four (4) trees in the assessment table as low significance and one (1) as medium significance. All trees under discussion are local indigenous remnant native species and members of the PSFG.

The S.U.L.E. assessment criteria states that if:

- The tree is a remnant or is a planted locally indigenous specimen
- The tree is listed as a Threatened Species or part of an Endangered Ecological Community

Then the tree is considered of high significance in the landscape and every effort should be made to retain it.

I also make the point that "the removal of trees to meet bushfire requirements" cannot be supported. The intention of determining a Bushfire Attack Level (BAL) is to define the appropriate building code rather than removing trees to meet a more desirable BAL. The image below from the assessment table of the bushfire report clearly states **no further tree removal is necessary**.

Features that may mitigate the impact of bush fire on the proposed development.	The separation from the hazard interface includes maintained land wholly within the subject site. The asset protection zones are existing, and no tree removal or other vegetation modification is necessary to establish them, as such there is no impact on the environment of the proposed bushfire protection measures.
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I also make the point that this Arborist report does not consider the important recommendations of the Geotechnical Engineer who strongly supports the retention of deep rooted vegetation above and below the proposed structures and cuts.

Geotechnical Engineer	Bushfire Consultant	Arborist
Keep trees and vegetation	No tree removal required	Remove trees

Alternative Solutions

In relation to the White Mohogany in the front of the site, the width of the garage should be reduced from 7.8M to approx. 6.2M and the storage room deleted. A storage room should not come at the expense of an old growth canopy tree and 6.2M provides adequate space to accommodate two (2) vehicles.

This current proposal results in the garage skewed against the front boundary, misaligning with the manually operated turntable creating an interruption to smooth vehicular flow. This also results in a deeper cut into the slope on a high-risk difficult access site.

There appears to be too much expected of a constrained site to accommodate a shared driveway, an inclinator with 2M rail setback, a double garage, a storage area, a turntable, zero setback retaining walls. the provision of adequate vehicle circulation space and a front setback of 1M that could be reduced to 900mm.

Another option is moving the start of the inclinator to the top of the garage which would also allow for the garage to be setback against the side boundary, realigned with the front boundary, reduce the height and depth of the cut, improve tree protection and improve vehicle circulation.

I note, no reduced level on the garage elevations or sections for the top of the retaining wall behind the 'balustrade wall' impacting the tree. Indicative drawings terminate that wall at different heights with no details or height references that are obvious. A high concrete block wall in that area will require a serious engineering solution.

I also note there is evidence of landslip and erosion all over the site including the house splitting in half and sliding down the hill. We do not want a repeat of 916 with the Great Wall of China, a shotcrete front area and no canopy vegetation.

3. Bushfire Report

In my opinion, the bushfire report should be referred back to the Terrey Hills RFS for reassessment.

Bushfire Assessment

The bushfire assessment by the authors own admission in the assessment table is considered low which conflicts with a high BAL rating of 40.

Bushfire Assessment and Geotechnical Advice

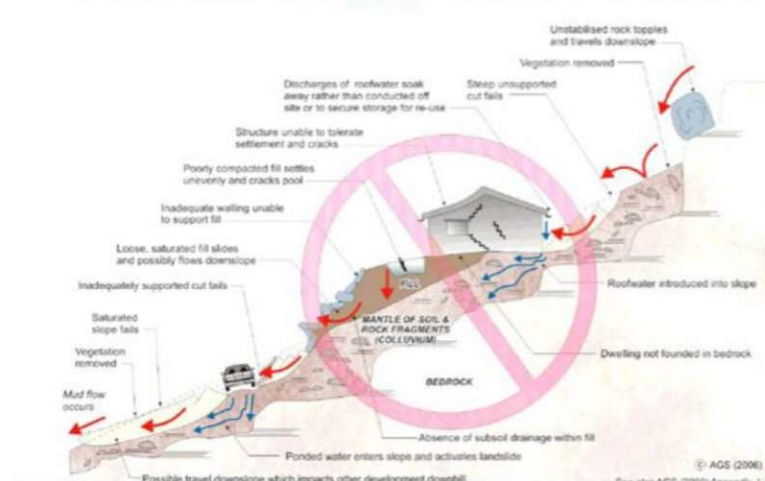
As per best practice, the bushfire report should be prepared in accordance with other environmental and geotechnical reports particularly on sloping sites where vegetation should be retained and cuts kept to a minimum.

The pictorial below illustrates the proper hillside practices required by the geotechnical engineer

EXAMPLES OF GOOD HILLSIDE PRACTICE



EXAMPLES OF POOR HILLSIDE PRACTICE



APZ & BDAR

The previously withdrawn DA2021/1664 contained a Natural Environment Referral Response - Biodiversity that requested a Biodiversity Development Assessment Report (BDAR) to be prepared due to the establishment of an APZ for the whole site as noted in the accompanying bushfire report.

The current DA 2021/2097 notes in appendix 5 within the Statement of Environmental Effects that a BDAR has been supplied. **The BDAR is not accessible via the web portal and cannot be reviewed.**

The recommendation the whole site be managed as an APZ in accordance with Planning for Bushfire Protection 2019 (PFBP), is not complying with the document it is referencing.

The RFS position is clear as stated in the PFBP on the following page. 3.2.2 states that the RFS does not support the use of APZ's on slopes exceeding 18 degrees except in exceptional case where it can be demonstrated a benefit exists. It clearly states below that a management plan must be submitted with the DA to provide details on how the APZ will be implemented and maintained. That has been ignored therefore the recommendation should fail. 3.2.3 also highlights concerns about APZ's on environmentally sensitive lands that should be assessed by the appropriate body. In this case Council. There is no case to support an APZ across the whole site.

Information relating to the creation and management of APZs is detailed in Appendix 4 of this document and in the NSW RFS document “*Standards for Asset Protection Zones*” which is available on the NSW RFS website www.rfs.nsw.gov.au.

A fundamental premise for APZs is that they are provided within the property in such a way that the owner/occupant will be able to maintain the area in perpetuity.

Where possible, buildings should be sited so as to reduce exposure to bush fire attack and provide suitable defensible space around a building.

3.2.1 Staged developments

Often an indefinite time lag can occur between one or more stages of development which can result in persons and property being unprotected in the event of a bush fire. A development site that is vegetated but is to be developed and sold in stages will require the creation of APZs that need to be maintained sequentially until the final phase of development is completed to afford each stage of the development the appropriate level of bush fire protection.

Therefore, in staged developments, APZs need to be provided during all stages, and provisions included that ensure ongoing maintenance is undertaken until such time as land is developed. If an easement or covenant is established for the purpose of an APZ it can be extinguished when a bush fire hazard is permanently removed (i.e. when development occurs).

The responsibility for the maintenance of APZs at each stage of development must be clearly defined within the easement or covenant.

3.2.2 APZs on slopes over 18 degrees

APZs on slopes greater than 18 degrees present ongoing maintenance difficulties and may have reduced effectiveness. Challenges in these circumstances may include the following:

- management practices may be difficult;
- the environmental consequences of ground clearing (destabilisation of the slope resulting in landslip, slump, erosion or landslide) may not be acceptable; and
- vegetation is more readily available to a fire, significantly reducing the advantage of having an APZ.

Where it can be demonstrated that these issues can be effectively managed, APZs on steeper slopes may be considered. Where there are effective slopes in excess of 18 degrees it must be demonstrated that

management can occur. A management plan must be submitted with the DA to provide details on how the APZ will be implemented and maintained. The management plan should include, but not be limited to:

- The mechanical means necessary to complete the management required;
- A schedule for maintenance to occur to ensure the APZ is regularly managed; and
- The relevant body responsible for maintaining the APZ.

3.2.3 APZs on environmentally protected lands

Where environmentally sensitive vegetation such as endangered ecological communities are to be cleared for the purposes of an APZ, the proposals will need to be carefully considered.

In some cases, a development may be proposed on land with a split zoning (i.e. part residential and part environment protection zone). BPMs may not necessarily be compatible with all zones. It should not be assumed that an APZ can extend into an adjoining non-compatible area, therefore any environmental constraints should be assessed by the appropriate authority.

3.2.4 Defendable space

Defendable space is an area within the Inner Protection Area (IPA) of an APZ adjoining a building. This space provides a safe working environment in which efforts can be undertaken to defend the structure, before and after the passage of a bush fire.

The physical size of the development will determine whether the defendable space is provided as pedestrian access or will require sufficient space for vehicular movements. Vegetation within the defendable space should be kept to an absolute minimum and the area should be free from combustible items and obstructions.

Bushfire Report Prepared for Withdrawn DA

According to the bushfire report supplied with DA2021/2097, this report is relying on plans submitted with the now withdrawn DA2021/1664.

The site plan, floor plans and elevations by Matt Goodman Architecture Office Job No A072/Barrenjoey-Rd/2018 Dwg's DA001 – DA027 inclusive have been reviewed and relied upon in the preparation of this report.

DA2021/1664 was withdrawn due to height breaches and other environmental shortfalls. It is unclear if the report remains suitable. It is also unclear if the fire consultant is aware the DA the report is relying on has been withdrawn and a new DA with modified plans submitted.

Presence of EEC's

The author of the bushfire reports states in his Assessment Summary Table (6.0) that Threatened Species are 'Not known' and an APZ was existing. Given the author must have inspected the site prior to 01 Sep 2021 then that is not correct. He has provided a number of bushfire reports and expert advice in the immediate vicinity and this issue was raised with him on multiple occasions.

Threatened Species / Aboriginal Relics	Not known / APZ Existing
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This image illustrates the shocking environmental and visual damage that has been done to the site since 04 Sep 2021. If this damage isn't bad enough the removal of another 4 canopy trees will completely decimate the site. To think this could happen on a high biodiversity site in 2021 with the current level of environmental awareness in the community. It beggars belief.

