

## **RED HEAD VILLAGES ASSOCIATION (Inc)**



North Bendalong, Bendalong, Berringer, Cunjurong, Manyana

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### **PROPOSED INTEGRATED DEVELOPMENT - SF10921 Land and Environment Court Appeal - Case Number 2023/00263435**

The Red Head Villages Association strongly objects to the proposed DA SF10921. RHVA is a Community Consultative Body representing the interests of the residents and property owners in North Bendalong, Bendalong, Manyana, Cunjurong and Berringer. Our submission in response to the proponent's previous DA in 2022 still stands, although there are additional factors to consider with the amended proposal.

#### **The Red Head village community (aka Five Villages) has effectively been ignored**

There has been no consultation or discussion with the community by the applicant prior to the submission of the amended Development Application. The community has had little more than 2 weeks to examine a complex DA with multiple reports and provide our comments during the January holiday period. This is disappointing and unacceptable.

#### **Impact on the environment continues to be of serious concern**

The Manyana Matters Environmental Association's (MMEA) submission regarding this DA, dated 27 January 2024, provides a thorough and well researched analysis of the Biodiversity Development Assessment Report (BDAR). RHVA supports the arguments in the MMEA submission in its entirety.

In addition, RHVA questions and provides comment on the following aspects of the development which fail to address their potential deleterious impact on the local environment:

- There is no mention or consideration of the Water Management Act 2000 with no inclusion of riparian corridors. This oversight must be addressed. The portion of land at the centre of this application is an important "Natural Final Filter" with links to the existing lagoon and at times to the ocean and those links should be preserved. The two Riparian Corridors close to and fenced in to the south are vulnerable areas and will collect the run-off which eventually arrives at the lagoon. If the lagoon is constantly closed it will become a "holding pit" for the substantially increased toxic contamination which will be caused by the development. If the lagoon opens to the

sea, those toxins would then pollute Inyadda Beach.

- **The Community Title Scheme and Community Management Statement:** The proponent is proposing that 57.53 ha of the site be retained and managed as a 'Community title lot for biodiversity protection purposes.' There is inadequate detail to determine how this scheme would effectively operate. For example, how would the scheme members access the necessary expertise and resources to ensure that this area is adequately protected?

### **Flooding risks ignored**

The land is within a known flood zone and the DA will increase the potential population density in that area, whilst providing only restricted evacuation access. There is no flood free emergency vehicle access for emergency service vehicles in the proposed DA. There are no appropriate evacuation routes in the event of a flood.

The proposed new crescent-shaped north elevated building platform also creates issues related to a change in the pattern of overland water flow with collection, redirection and the need for a drainage design that would be reliant upon constant monitoring and maintenance to protect adjacent and downstream areas. Questions arise as to who would be responsible for monitoring and costs involved in a system located on private land, and how would potential trapping of overflow and threat to biodiversity of the Illawarra Lowlands Grassy Woodlands and Riparian zone be averted?

### **Stormwater drainage proposed measures are inadequate**

The proposal's Statement of Environmental Effects (SEE) says that the stormwater management plan has addressed the Water Management Act requirements. However there is no consideration of the Guidelines for Riparian corridor in either the SEE or stormwater management plan. This legislation and these guidelines must be considered with riparian corridor mapping showing how the site avoids the riparian corridor or offsets the area of impacts.

The proposed stormwater treatment solution is wholly inadequate. It relies on individual lot owners regularly inspecting and maintaining stormwater treatment devices. There is absolutely no certainty that this will happen.

The contours of the majority of the proposed development suggest the majority of the overland flow would by-pass the proposed basins. These should be designed to accommodate this up to a 1 in 100yr storm event based over intensities from 5min – 72hrs also picking up all contaminants prior to discharging the protected zone and beach waterways.

The DA proposes Gross Pollutant Traps are a poor mitigation measure, which quickly become costly to Council. A more appropriate mitigation measure that does not have such high costs to Council and therefore the community must be recommended. Gross pollutant traps are notoriously neglected and thereby ineffective.

## **Sewerage Management**

It is assumed that the Development Sewer Drainage System proposed in the original development application remains as the approach undertaken in the current proposal. On this basis objections and concerns raised then will still apply. The reliance upon an individual Pump Out Sewer installation for each new property is still a concern. This system requires constant power to be able to function. The frequent occurrence of blackouts due to high winds is concerning when the size and occupation rate of the proposal at peak times will be substantial. The users of the system will be comprised of a number of temporary non-residents who will not be aware of the workings and maintenance issues involved to keep the system functioning. Also, the infrequent use of the system at other times of the year associated with unoccupied houses can lead to problems of fermentation occurring in the sewer pipelines; a definite health problem.

The installation of two sewer vent stacks along Curvers Drive is still a concern in terms of visual and health impacts. The impact of the disturbed 1:6 sloping ground around the sewer main will also place a load on the system. The odours emanating from the vents will impact surrounding and rising properties to the south, east and west of the development. Reliance upon carbon canister filters which still need to vent and are subject to monitoring and maintenance is concerning. No community consultation was attempted to help residents realise and understand this proposed installation and its ongoing impacts. The properties immediately adjacent to these devices are even more directly impacted.

## **Earthworks and retaining walls have adverse effect on environment and neighbours**

The proposed earthworks and retaining walls would have a significant effect on the environment, neighbouring properties, safety and the flow of water. The impact of construction involving heavy equipment and materials has not been addressed in the DA. The proposal indicates the use of new drainage basins nos. 01 and 02 provided for the long-term protection of the surrounding areas, being used for sediment basins during construction. The basins would work as filtration with the possibility of overflow during heavy, inclement weather conditions. Control of these vital elements would be required to avoid damaging impacts.

The smaller detention basin is located within C3 zone and defined as 'environmental protection works'. The definition of this provided by the consultant is not at all consistent with the definition provided in the SLEP 2014. The SLEP definition is 'environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.' This detention basin should be completely removed from this zone as it is not environmental protection works and therefore does not fall within development specified as permitted with or without consent. If this basin was to be included it would have a direct impact on the ecological community of C3 and this impact has not been considered in the Statement of Environmental Effects. Therefore, the application is inconsistent with the objectives of the relevant zones.

There are 56 properties located on the northern edge of Curvers Drive immediately adjacent to the proposed development. Properties west of The Promenade would be impacted by the introduction of a 1:6 batter sloping down and away from their rear boundaries. There are real concerns over potential disturbance of the stability of the adjacent Curvers Drive properties. The location of the sewer main within the new disturbed 1:6 sloping zone poses the threat of possible movement of pipework and leakage with resultant health issues.

### **Visual impact**

The intrusion of the proposed development to the east towards the ocean is virtually unchanged from the previous DA. Running approximately three-quarters the length of Curvers Drive, the development would be highly visible and would dominate the surrounding area, rising significantly from platforms of 4m high above the existing ground level. The proposal is unsympathetic and unnatural in that it does not relate to the existing landform. The SLEP allows for building envelope heights at original ground levels which would require accurate documentation to record them as they exist today so that correct building height envelope compliance could be achieved.

Surrounding perimeter roads sit atop 4m retaining walls. Further engineering would add even more height as steel barriers to prevent vehicles from crashing over the edges would be required.

### **Imported Fill Material**

Based on the applicant's information it is proposed that 115,835 cubic metres or approximately 250,000 tonnes of fill would be imported, and placed up to 3 metres in depth. Specific concerns in relation to this activity are:

- The source of this imported fill has not been identified and as such no assessment can be made as to its suitability for use in the designated location.
- This type of activity will introduce a severe risk of erosion and pollution during construction particularly in the present climate of unpredictable and severe rainfall events.
- The engineering details for sediment control considers the impact from the completed civil works and does not appear to address the erosion impacts during construction.
- The haulage of this material will require in the order of 6,000 truck and dog heavy vehicle movements into the site and a further 6,000 movements out of the site just for the imported fill component of the development. There does not appear to be a traffic report to consider and manage the significant impact of this activity on both the local roads and their normal users.

### **Estimate of the Works**

In the application for the 100 lot subdivision an estimate of the development works has been provided by the applicant's QS of approximately \$16.6M. It appears there is no updated estimate for the 65 lot subdivision. In the estimate that has not been updated, an allowance of \$500,000 has been made for earthworks which is significantly under estimated. The cost of imported fill material is likely to be between \$20/m<sup>3</sup> and \$40/m<sup>3</sup> (dependant on source and distance to transport) which would amount to at least \$2.3M (possibly \$4.6M) exclusive of

placement and treatment on site. Therefore, the overall cost of earthworks is more likely to be in the order of \$5m, 10 times what has been allowed by the proponents.

Within the estimate of \$16.6M an allowance for landscaping has been made of \$100,000 which is also very low when checked against the planting schedule provided. There are many other examples of the estimate being lower than would be expected and based on an analysis of the estimate for the 100 - lot subdivision I would expect a cost for the works to be in excess of \$30M.

### **Designated Development and Environmental Approval**

Whereas the proposed development does not specifically fall under Schedule 3 of the Environmental Planning and Assessment Regulation 2000, the proposed development should be treated as a designated development and attract an appropriately high level of scrutiny from the approval authorities due to:

- the scale of the imported fill to artificially create elevated building platforms,
- the likely cost being more in the order of \$30M than the applicants estimate of \$16.6M,
- the potential adverse environmental impacts on the highly sensitive coastal environment, and
- the significant impact of additional large scale residential development on the Red Head Villages Association strategic plan for a sustainable “Five Villages” concept.

### **Remediation and contamination unacceptable**

The current amended PSI (2022) does not meet the objective of the NSW EPA Consultants Reporting on Contaminated Land Guideline to determine “whether site contamination poses an actual or potential risk to human health and the environment, either on or off the site, of sufficient magnitude to warrant remediation appropriate to the current or proposed land use” due to insufficient assessment of the site.

Given the large scale of the site and that contaminants above the adopted health and ecological tier 1, screening criteria are in fact present at various locations at the site, a Detailed Site Investigation (DSI) should be conducted to provide further understanding of the contaminant ranges and also provide better site coverage to identify any potential contaminating activities or point sources that were not identified during the desktop review or site inspection. The DSI should include probabilistic/systematic sampling and include a wider range of contaminants of potential concern to take into consideration the historical agricultural uses of the site, observed “fly-tipping” and potential for imported fill materials from unknown locations (throughout the sites history, not just recently) to include on a wider basis:

- Heavy metals
- Total Recoverable Hydrocarbons
- Benzene, toluene, ethylbenzene, xylenes, naphthalene
- Organochlorine Pesticides
- Organophosphate Pesticides
- Phenols
- Polychlorinated Biphenyls

Consideration should also be given to the contamination status of the waters (surface waters were identified as a receptor in Table 7-2) and sediments within the waterways that occur within the site. Additionally, groundwater was not assessed or included in the conceptual site model. The NSW Sampling Design (part 1) Guidelines state “The appropriate method for the assessment of groundwater is determined by undertaking a PSI. This should include a desktop hydrogeological assessment and a site-specific CSM, which must include groundwater”. Samples were collected from the top 0-0.3 m below the ground surface. It is outlined in the NSW EPA Sampling Design Guidelines (Part 1) that surface samples should be collected within the top 0.15 m from the ground surface. This ensures that the soil sample is representative of any contamination originating from the surface. Samples collected from below 0.15 m are at risk of not capturing any contaminants, if present, from the surface soils. Additionally, no bore/testpit logs were included in the report.

### **Unacceptable bushfire risks**

The proposed DA does not adequately address bushfire risk. The development site is situated in an historical fire path from the north-west as demonstrated by the mega fire of 2019/20 and the fires of 1968, 1988, 1991, 1994, 2000/2001 and 2012/2013.

This development will impose an enormous drain on already limited fire-fighting resources. Resources are already inadequate and stretched as demonstrated in the catastrophic 2019/20 fires. More houses overall demand more resources, and to make matters worse, houses on the large blocks as proposed need more fire trucks and crew to defend them.

Bendalong Rd provides ‘one road in/one road out’ access to the Five Villages. With greatly increased population numbers at peak times, exit from the community in an emergency is highly risky. It took 3 days in January 2020 during the Currowan fire emergency to get all holiday makers and residents out of the villages via Bendalong Road.

### **No guarantee that 65 lots would not become 300 houses**

The development is inappropriate for the character of the village taking into consideration the potential “permitted with consent” options for the zoning of R1 and R5. These are dual occupancy, secondary dwellings, Hostels, and multi dwelling housing. The minimum lot size for the R1 zoning is 500m<sup>2</sup>.

The nature of the proposed blocks would incentivise lot owners to build high-cost temporary rental properties. House sizes are anticipated to be 600 sq metres, which is twice the size of the average 4 – bedroom house. Together with the potential for multiple structures to be built on each site with the associated increase in residents/holiday makers per site, the consequent increased population pressure will impact already inadequate local infrastructure. The development has nothing at all to do with easing housing affordability issues. It is designed to allow the developer, and subsequent owners, to maximise profits at the expense of the local community.

Despite the design strategy of the developer to treat the R1 lots the same as the R5 zoned large lots, if the strategy described above does not provide a sufficient return to the developer or owners, it is to be expected that they would seek to sub - divide their properties into 500 sq metre lots, with the potential for up to 299 houses to be built. This could exacerbate all of the other issues associated with the development by 400 per cent.

### **Effect on traffic flow and local roads ignored**

The DA –

- has no regard to its effect on existing major and minor roads in the area. This is already a serious issue for the local community.
- does not allow for suitable vehicular access and intersections.
- continues to rely upon a completely unsuitable traffic report which was prepared using information obtained during 2021 when COVID restrictions continued to apply. No regard has been made to the actual volume of traffic generated during peak holiday time.

The impact of increased traffic flows on the safety of Bendalong Rd, already pot- holed and dangerous, has not been considered.

### **High sale and building costs may see Development site abandoned**

There is a real possibility that if the DA is approved, that the very high sale, building and compliance costs, and costs of individual - owner Community Title site management may lead to a lack of sales and potentially to an abandonment of the site. The prospect of a long - term wasteland is a very concerning prospect.

