

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



North Bendalong, Bendalong, Berringer, Cunjurong, Manyana

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**Land and Environment Court Appeal - Case Number 2023/00263435**  
**Development Application SF10921**  
**Inyadda Drive, Manyana – Lot 2 DP1161638; Lot 2 DP1121854; Lot 106 DP755923**

The Red Head Villages Association Inc (RHVA Inc) is a Shoalhaven City Council Community Consultative Body that represents residents, property owners and visitors in the five villages of North Bendalong, Bendalong, Manyana, Cunjurong Point and Berringer Lake, as well as those along the Bendalong Road.

RHVA Inc objects strongly to the latest amendment to the development application relating to the bushland off Inyadda Drive at North Manyana, SF1092.

The reduction in scope of the revised proposal to 43 lots still does not adequately address:

- the potential adverse environmental impacts on the highly sensitive coastal environment.
- The lack of controls for the future management of the residential lots and community land.

### **Procedural unfairness has stifled community consultation**

RHVA understands that the Land and Environment Court has stated that the amended application is not a new application. Therefore, all 258 objections to the previous DA amendment should be deemed to be objections to this DA iteration. Our community has been effectively blindsided by this amended application.

The repeated amendment of the development proposal in advance of the current appeal, together with two significant amendments to the proposal during the course of the appeal, is a testament to the significant issues associated with any development on this site and to the strong and consistent opposition from the local community.

The developers should not be given a reward for persistence. They were well aware of the nature of the community's long-standing concerns about development of this site at the time they purchased their interest. Rather than engaging with those concerns the developers have sought to test the community's resolve by regularly amending their proposal and seeking to avoid or limit the opportunities for substantive community engagement.

The current manifestation of the proposal: (a) does not address fundamental concerns raised by the community in numerous previous submissions, and (b) raises fresh areas of concern given the increased onus on potential future community owners for infrastructure upkeep and biodiversity management, and the move to a pump out sewer system.

### **How will Community Title sustainably protect biodiversity?**

The application proposes that the entire development will be a Community Title Scheme. A community association comprised of the owners will be expected to manage all aspects of biodiversity protection including maintenance of 'native flora and fauna in perpetuity', the roads, retaining walls and the bio-retention basins. This will require high ongoing management costs for potential future owners.

The DA does not provide the required detail by which the Council or the impacted community can make an assessment of the future management of the land. There can be no guarantee that the Vegetation Management Plan would be funded, implemented, or maintained over the long term by the private property owners. Therefore the claim by Heir Asquith that the protection of biodiversity on this environmentally sensitive site will be sustained is highly questionable.

### **43 large residential sites allow for multiple occupancies**

It does not appear that the application provides details as to the future controls for these large residential lots and the community land, such as the potential to further subdivide the lots which could introduce a significant increase in the number of dwellings as well as dual occupancy applications.

The amended DA indicates building envelopes on the large individual blocks starting at a minimum of 550 up to 1122 square metres. The average size of a 3 Bedroom House is 250 sq metres. The potential number of occupants and associated vehicles that could be accommodated is therefore substantially increased.

There is a real opportunity to build investment properties on a large scale. Lot 41 lends itself to a "Resort Style" residence with multiple bedrooms capable of high rental opportunities.

The claim made within the Statement of Environmental Effects (page 11/59) that the "proposed development provides housing needs for the Manyana Community that are consistent with the larger lot sizes of the surrounding area", is not correct since this proposal "clusters" the properties as opposed to larger sized parcels elsewhere and away from the village precinct. It is setting an unwanted precedent based on maximum investment gains.

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

The Manyana Matters Environmental Association (MMEA) has considered the new application and formed the view that there continues to be a risk of serious irreversible environmental damage to flora and fauna. RHVA Inc completely supports the MMEA submission.

### **High sale and building costs may see development site become a wasteland**

There is a real possibility that if the DA is approved, that the very high sale, building and compliance costs, and costs of monitoring and maintenance 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 and realistic consideration.

### **Estimate of the Works**

The initial DA submission for the 100-lot subdivision contained an estimate of the development works of approximately \$16.6M. There were many items in this estimate which in our local expert's opinion had been considerably underestimated, and his estimate for the original 100 lot subdivision was in the order of \$30-35M. It appears there is no updated estimate for the revised submission and the applicant is using their original estimate which is no longer relevant. The revised scope should be prepared by a qualified estimator.

### **Flood modelling and impact on the creek**

The revised report from Horton Coastal Engineering still maintains that the proposed works will not have a material impact on the behaviour of the creek or its outlet to the sea. This is unlikely. The short (some 500 metres) distance from the proposed works to the creek outlet would leave little chance for likely significant change to the creek flow to be mitigated. The potential for permanent change to the overland flow characteristics is high and a peer review of the flood modelling would be advisable.

There is also the risk of increased erosion from the additional flows generated from roofs, roads and other hard surfaces.

### **The Inyadda beach lagoon is likely to become toxic**

The lagoon at Inyadda beach will, in essence become a "holding pit" for ongoing accumulation of run-off toxins such as house-hold chemicals. The Coastal Engineering Report confirms that the lagoon will be mostly closed without flushing activity occurring. When the lagoon opens to the sea, those toxins will then pollute Inyadda Beach, a popular swimming and surfing area for locals and visitors alike and the home of threatened shore birds.

### **Potential for contamination on the site is unacceptable**

The contamination investigation and amendment do not satisfy the national and state guidelines to determine the contamination status of the site. A detailed site investigation is required to investigate the elevated concentrations of heavy metals and asbestos already detected in the soils and to determine the contamination status of both the soils and groundwater within the area proposed for development and outline any remediation requirements.

### **Sewerage risks**

The highly visible and odour producing Sewer Vent Stacks, it is assumed, will be required at points along the rear of Curvers Drive properties. There is no indication how the sewer pipe connections are run from the north to the south, now that the connecting bridge has been abandoned. Serious questions arise over whether the pipework will be installed through the riparian zone and the threat of a pipe failure which could feed into the stormwater runoff.

Experience in other areas suggests that the use of a sewer pump out system will increase the risks of sewerage contamination, particularly during heavy rains and as the sewerage tanks age. Obligations on property owners and enforcement measures for the proposed sewerage scheme are not clear.

### **Unacceptable bushfire risks**

The proposed DA does not properly 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.

Despite the amendments in the design & layout of the North Manyana development, in the event of another severe bushfire it will place the surrounding communities at extreme risk.

The new estate will be the first residential area impacted by bushfire. It will then tie up the available firefighting vehicles and firefighters. As a consequence, there will be reduced resources to protect the other villages.

### **Bendalong Rd and Five Villages traffic issues**

With greatly increased population numbers at peak times, exit from the community in an emergency is highly risky. It took three days in January 2020 during the Currowan fire emergency to get all holiday makers and residents out of the villages via Bendalong Rd.

There is still no acknowledgement of the "One Way In and One Way Out" escape along Bendalong Road from the whole area of the Five Villages. The condition of the road will continue to be a problem because of the nature of the ground and base underneath, which is affected by rain events. The construction of the proposal will still contribute greatly to the deterioration of this single link.

The current proposal replaces the previously dangerous "four-way intersection" of Curvers Drive and The Promenade with a formed "Emergency Access Only" in lieu of the road. This still presents a dangerous situation particularly during bushfire events when smoke inhibits vision at blind corner entry and exit positions used by fire fighters and fleeing residents travelling along Curvers Drive and The Promenade. It is estimated that the Emergency Entry / Exit will be at a 1 in 4 slope.

There are still large amounts of earthworks required for the construction of roads and the building platforms with retaining wall design noted as subject to final design. The southern section is very reliant on substantial "Cut and Fill" methods. A number of lengths of proposed roads are now cut into the existing land with the introduction of batters rising above the road surface. Maintenance of these batters will be ongoing.

### **Threat to existing Curvers Drive properties**

The "batter" form of construction is continued at the immediate rear north boundary of a minimum of 21 existing Curvers Drive properties. There are battered forms nominated on the drawings as 1 in 6 slopes and estimated as running north for more than 20 metres (horizontal dimension), however depending upon clearer information, these slopes could be as steep as 1 in 4. This work will involve large equipment excavation activity immediately at the rear of existing properties and over the top of the existing sewer main. The potential for short- and long-term damage to the rear yards and any adjacent outbuildings or storage areas is high.

The ongoing maintenance and containment of soil and vegetation is a major concern. The maintenance of these slopes in terms of bushfire readiness is a continuing problem as they could provide a "rising wick" of a substantial area, taking fire to the Curvers Drive properties.

### **Conclusion**

RHVA Inc continues to object strongly to this third iteration of the Heir Asquith Development Application for Inyadda Drive Manyana. Despite a reduction in residential blocks, substantial concerns remain about the impact of this significant development on the fragile and seriously endangered ecological communities on the site. There is the real potential for large scale and multiple dwelling construction and future subdivision of the large blocks in a community which will continue to experience catastrophic fire risk. This community has no confidence at all that Community Title management will reliably manage the bio-diversity of this site.