

“... popular protest and much letter writing to ‘save the parks’ have clinched most of the battles over Centennial Park.”¹

- *It is a national issue, not a local issue*

This is not a local Mosman issue. It is not even just a Sydney or state issue. This is a national issue. It is about preserving national parkland from de facto alienation and privatisation by stealth.

The Sydney Harbour Federation Trust was established for the return of harbour foreshore lands

*... not just to the people of Sydney, not just to the people of the suburbs around Sydney Harbour but to all the people of Australia.*²

Approval of an aged care home in Headland Park at Middle Head would be the thin edge of the wedge – a precedent for full time commercial residential accommodation in all lands under the control of the Sydney Harbour Federation Trust.

It would also encourage, if not provide a template for, private developers to propose residential accommodation in other national, state and territory public parklands.

Every indication is that any such moves will be strongly rejected by the Australian people.

- *This public parkland is for all Australians, now and future*

This fight is to preserve these public parklands for current and future generations of all Australians. Joe Hockey, MP for North Sydney, said it well in 1998:

*Significantly, the views of the local community also reflect a general desire to promote intergenerational equity when it comes to our environment. The request that the lands do not fall victim to private concerns is not motivated by jealousy on the part of local residents. Instead, the community is determined to see the lands preserved for the benefit of future generations. This desire for preservation is consistent with the view of a large majority of people who live on the lower north shore that this generation is the guardian of our environment for the generations to come.*³

Nothing has changed since then. Mr Hockey’s assessment of the public mood and of the views of voters on this issue remains just as relevant and apposite today.

- *Need to preserve public parkland, particularly Sydney Harbour foreshore parks*

Preserving public parklands as parks is vital. This is particularly so for the headlands at the entrance of Sydney Harbour. As you / the current Prime Minister Tony Abbott, MP for Warringah (which includes Middle Head and North Head), *[amend to suit the addressee of the letter]* said in 1997:

Since [1995], I have organized a number of protest meetings and campaigned strongly to ensure that this priceless piece of our heritage is not squandered to the everlasting loss of the people of Sydney and Australia.

The principles I have attempted to uphold have been: that all bushland must be protected forever; that there should be no large scale commercial development; that heritage buildings should be protected and restored; that any redevelopment must be confined to existing areas; and that the military’s departure should produce a better environment for

¹ *The ‘People’s Park’: Centennial Park, a History* Paul Ashton, Kate Blackmore and Armanda Scorrano, Halstead Press,

² Sydney Harbour Federation Trust Comprehensive Plan, p.12

³ The National Trust of Australia (New South Wales) Submission to the Sydney Harbour Federation Trust dated 26.2.2014 opposing the proposal for an aged care residential development on Middle Head, p.2

*local people with more open space, more bushland and more public access to the last unspoilt headlands in Sydney Harbour.*⁴

The proposal for an aged care home on Middle Head is not consistent with those principles which you / Mr Abbott [*amend to suit the addressee of the letter*] enunciated so clearly then.

I hope and expect that your / the [*amend to suit the addressee of the letter*] government will honour those principles and reject any proposal for aged care residential accommodation in the Middle Head precinct on Middle Head.

- ***PM Tony Abbott's legacy from involvement in saving Middle Head from housing will be diminished if an aged care home is allowed***

In 2007, when opening the new Visitor Centre at North Head, you / The Hon. Tony Abbott [*amend to suit the addressee of the letter*] said that, for yourself / himself, [*amend to suit the addressee of the letter*] returning the harbourside defence lands to public use had been the best government initiative you had / he had [*amend to suit the addressee of the letter*] been involved with.⁵

At Middle Head, those lands were saved from being sold for private residential accommodation in the form of housing and were legislated to be set aside for public use.

That initiative will be diminished if approval were now to be given for part of those dedicated public lands to be given over to private developers for 25 years to develop long-term residential accommodation in the form of an aged care home.

- ***PM Tony Abbott's legacy of funding the Trust to preserve heritage could be tarnished***

In 2012, you / The Hon. Tony Abbott [*amend to suit the addressee of the letter*] said:

*As a member of parliament, my ... next campaign was against the Keating government's proposed sale of former military land around Sydney Harbour. Largely at my instigation, the Howard government committed more than \$115 million to the Sydney Harbour Federation Trust to preserve the natural and built heritage of places like North Head and Middle Head.*⁶

That commitment has to date made a great contribution to the preservation of many sites, particularly at Middle Head, and is widely appreciated.

However, that legacy would be tarnished if, for want of spending a relatively small amount to restore the 10 Terminal buildings to a state fit for adaptive re-use, the government were to sanction private development of long-term residential accommodation in the form of an aged care home in the very places of heritage which were to be preserved and conserved.

- ***Aged care is a red herring***

Aged care is a red herring in this matter, diverting attention from the real issue of what is appropriate in the public parklands of the Trust.

Whether or not there will be an increasing need for aged care beds in Sydney is beside the point.

Public parklands are not the place for long-term residential accommodation, aged care or otherwise.

- ***Aged care – nice idea but wrong place***

Putting an aged care home in Middle Head parkland would be like putting an aged care home in Centennial Park or the Royal National Park or the Domain.

⁴ The National Trust of Australia (New South Wales) Submission to the Sydney Harbour Federation Trust dated 26.2.2014 opposing the proposal for an aged care residential development on Middle Head, p.1

⁵ Geraldine O'Brien, "Urban Warriors", Sydney Morning Herald, 23.6.2007, p.13

⁶ Address to the Australian Industry Group, Brisbane "The Coalition's Plan for a Cleaner Environment', <http://engage.wa.liberal.org.au/general/tony-abbott-speech-to-the-australian-industry-group-brisbane-the-coalitions-plan-for-a-cleaner-environment>, 2012, accessed 4.4.2014

Those would be unthinkable – but the principle is the same.

- *An aged care home would be **contrary to the Trust’s objects and its own Plans***

The Sydney Harbour Federation Trust has never given a plausible, let alone credible, explanation as to how full-time long-term residential accommodation (in this case in the form of an aged care home) would comply with its statutory objects and with its strategic plans for Middle Head.

Instead, Trust Executive Director Mr Geoff Bailey has repeated the assertion that an aged care home would be a “good fit” in this public parkland and that it would be consistent with the objects of the Trust.⁷

That the Trust proposed to amend its own Management Plan for Middle Head in order to be able to approve the aged care home application indicates that the Trust itself did not believe that the application was compliant.

Accordingly, the appropriate course of action is for the Trust to reject any application for aged care accommodation on Middle Head and for no approval to be given, either by the Trust or by any member of the government, to any such application or proposal.

- *The Headland Park, including Middle Head, is iconic and should be **preserved as parkland***

In 1997-8, then Prime Minister John Howard said “*I find it [the idea of the Middle Head area being “cut up and sold off to private development”] very unattractive ... the Harbour foreshores of Sydney [are] a jewel in the Australian crown*”⁸

Nothing has changed since then to justify a retreat from Mr Howard’s visionary stance, which resulted in the creation of the Sydney Harbour Federation Trust and the preservation of former Defence lands as public parkland for all Australians.

It would be a tragedy to fritter away this valued part of his legacy just to avoid spending the relatively small amount needed to restore the 10 Terminal buildings to a state fit for adaptive re-use.

- *Proposals for an **aged care home on Middle Head inconsistent with Howard’s commitment***

In September 1998, an Interim Sydney Harbour Federation Trust was established by the Howard Government to manage surplus Defence lands on Sydney Harbour foreshores prior to legislation which established the Sydney Harbour Federation Trust.

On establishment of the Interim Trust, the then Prime Minister, the Hon. John Howard MP, reminded Australians of the value of Sydney Harbour to all Australians and outlined the importance of establishing the Sydney Harbour Federation Trust :

...[Sydney Harbour is] probably the world’s greatest harbour. It is one of the great natural beauty spots of our nation. It is the cradle of European settlement in Australia and it is one of those parts of our country which gives immense pride and immense pleasure, not only to the residents of Sydney, but also to all Australians because it wins such wide acclaim around the world.

*...[the establishment of the Trust] will prevent any ad-hoc treatment of the return of the land to the people and it will ensure that there is maximum weight given to the desire of all Australians that the maximum advantage be derived in open space and recreational purposes in relation to the land.*⁹

An aged care home with a long term lease of public parkland to a private developer could in no way be said to meet that commitment of ensuring “that there is maximum weight given to the desire of all Australians that the maximum advantage be derived in open space and recreational purposes”.

⁷ Statements by Trust Executive Director Geoff Bailey at an information session on 26.11.2013 at 10 Terminal; at Mosman Council on 4.3.2104; and in public meeting on 10.4.2014 at Mosman Senior Citizens Centre

⁸ <http://pmtranscripts.dpmc.gov.au/preview.php?did=10734>, accessed 7.3.2104

⁹ Sydney Harbour Federation Trust Comprehensive Plan, pp.11-12

- *The proposed aged care home would be **incompatible with the Trust's own objects***

Full-time residential accommodation in the Middle Head precinct parkland would be incompatible with the nature of the parkland and the objects of the Trust.

Statutory objects of the Trust include:

to ensure that management of Trust land contributes to enhancing the amenity of the Sydney Harbour region;

to protect, conserve and interpret the environmental and heritage values of Trust land;

to maximise public access to Trust land;

to establish and manage suitable Trust land as a park.....¹⁰

A large aged care home would satisfy none of these objects.

- *The proposed aged care home would be **incompatible with the Trust's own Plans***

Full-time residential accommodation in the Middle Head precinct parkland would be incompatible with the nature of the parkland and the Plans of the Trust, which the Trust itself prepared.

The Middle Head precinct is a distinct precinct in Headland Park. It has its own Management Plan, which states that the Trust's goals for this precinct are :

to ensure that: the natural and cultural assets of Middle Head...are conserved; the bushland area is increased in size;...and existing facilities are adaptively reused for appropriate educational, community, recreational and commercial uses.¹¹

A large aged care home would meet none of these goals.

- *The proposed aged care home would be **inconsistent with the Trust's own vision***

The Trust's vision is stated to be:

To provide a lasting legacy for the people of Australia by helping to create the finest foreshore park in the world and to provide places that will greatly enrich the cultural life of the city and the nation.¹²

A large aged care home would be inconsistent with that vision.

- *The proposed aged care home would be an **inappropriate use of public parkland***

Middle Head parkland should be preserved for the use and enjoyment of all, not just for an elite few able to afford privileged and exclusive residential care in priceless public lands.

- *10 Terminal **buildings not derelict***

The 10 Terminal buildings have been described as derelict. That is false and misleading. Those buildings are sound and quite capable of restoration and adaptive re-use, at relatively little cost.

- ***Conflict of interest** – lack of good governance and due process by the Trust advocating for the aged care home proposal*

The Trust, as the consent authority for the leasing of Trust lands, is obliged under the principles of good governance and due process to remain impartial and refrain from promoting the interests of any party seeking to lease Trust lands.

However, contrary to those principles, the Executive Director of the Trust has publicly advocated the benefits of the aged care home proposal.¹³

¹⁰ Sydney Harbour Federation Trust Act 2001, s.6

¹¹ Sydney Harbour Federation Trust Management Plan – Mosman No.7 – Middle Head, p.4

¹² Sydney Harbour Federation Trust Comprehensive Plan, p.12

- ***Lack of transparency by the Trust - details of existing application removed from Trust website***

At a public meeting on 10 April 2014, the Executive Director of the Trust advised that the residential aged care development application lodged with the Trust in 2013 had neither been withdrawn nor rejected by the Trust.¹⁴ As such, that application remains on foot.

Nor has any amendment to that application been lodged with the Trust, despite the Executive Director asking the public not to object to the existing application, on the grounds that the applicant had apparently indicated to the Trust that the applicant *intended* to amend its proposal.¹⁵

Despite that, the Trust has removed the current application from the Trust website. As such, the public is unable to view details of the application which the Trust itself admits is still on foot.

That is unacceptable and demonstrates that the Trust is seeking to avoid public scrutiny of a contentious application, which has been roundly criticised and opposed, not only by the public at large but also by Mosman Council (unanimously) and by the National Trust.

- ***The Trust is evading public scrutiny of a matter of considerable public interest***

The Trust has now twice rejected Freedom of Information (FOI) requests seeking to obtain information to resolve inconsistent statements by the Trust Executive Director and Deputy Executive Director as to the processes by which the aged care home application came to be received and selected by the Trust and how expressions of interest by other parties were rejected.

In each case, the Trust's rejection of the FOI requests could have been advised by the Trust promptly on receipt of the requests. Instead, the Trust on each occasion delayed its rejection advice for the maximum period allowed by law.

In both cases, the Trust could have offered to discuss with the party making the request how the requests could be amended to a form which the Trust would be prepared to comply with. No such offer was ever made.

It is somewhat disingenuous therefore for the Trust, under questioning, now to invite discussion to negotiate an acceptable rewording of the FOI requests.¹⁶

- The preamble to the Sydney Harbour Federation Act 2001 states –

The Parliament intends to conserve and preserve land in the Sydney Harbour region for the benefit of present and future generations of Australians. ... Suitable land with significant environmental and heritage values will be returned to the people of Australia.

The Parliament intends to establish the Sydney Harbour Federation Trust as a transitional body to manage the land and facilitate its return in good order. The Trust will transfer suitable land to New South Wales for inclusion in the national parks and reserves system.

Private development of an aged care home with a long-term lease of public parkland would be incompatible with the intentions of Parliament expressed in the Trust's own Act.

It would also compromise Parliament's intention that the Trust will transfer Trust land to New South Wales for inclusion in the national parks and reserves system. Aged care homes have no place in national parks.

- ***The proposed aged care home development would be inappropriately located***

¹³ Letter from Trust Executive Director Geoff Bailey to the Mayor of Mosman dated 3.3.2014 and address by Bailey to Mosman Council on 4.3.2014

¹⁴ Statement by Trust Executive Director Geoff Bailey at public meeting 10.4.2014 at Mosman Senior Citizens Centre

¹⁵ Letter from Trust Executive Director Geoff Bailey to the Mayor of Mosman dated 3.3.2014; address by Bailey to Mosman Council on 4.3.2014; statement by Bailey at public meeting 10.4.2014 at Mosman Senior Citizens Centre.

¹⁶ Statement by Trust Executive Director Geoff Bailey at public meeting 10.4.2014 at Mosman Senior Citizens Centre

The proposed aged care home development would be inappropriately located. It would be housing vulnerable and dependent aged persons in a relatively isolated location with limited access and removed from shops, services and the community generally.

That would not only be contrary to the values professed by the proponent in public meetings but also contrary to current practice to site such facilities more centrally to their host communities.

The National Trust has lodged a submission with the Sydney Harbour Federation Trust objecting to the proposed development. The National Trust states that the development proposed is one to be expected on a privately-owned site zoned for medium density housing without buildings of heritage significance and that the development being proposed on public land within the intended boundary of Sydney Harbour National Park is totally unacceptable.¹⁷

The above comments by the National Trust would be equally applicable to any revised or amended application, should that eventuate.

- *The proposed development would be of **inappropriate size and scale***

The proposed development would be of a size and scale out of all proportion to its surrounds and out of character with the Middle Head precinct.

- *Process **inconsistent with statutory function** of the Trust for **community consultation***

The Sydney Harbour Federation Trust has a statutory function of undertaking community consultation on the management and conservation of Trust land.

There has been no genuine or effective community consultation in respect of the proposal for private development of an aged care home on Middle Head. Instead, the Trust has held an information session and public board meetings at which the public was invited to comment and make submissions. However, there has been no indication that the numerous points expressed by the public on those occasions have been seriously considered by the Trust, as the Trust board has remained silent and its Executive Director continues to assert that aged care would be a “good fit” in the parkland.

The Trust acknowledged in December 2013 that it had received hundreds of submissions in respect of the aged care home proposal.¹⁸ However, in the four months since then, none of those submissions have been made public, nor has the Trust released any details of those submissions or provided any report as to submissions received.

The Trust has briefed its Community Advisory Committee in respect of the proposed aged care home proposal but such briefings are understood to have been somewhat perfunctory and falling short of the level of involvement to be given to such Committees by the Trust’s Act.

- *(for letters to Tony Abbott only)– **professed faith in Trust Executive Director Geoff Bailey and in due process** by the Trust appears not to be warranted*

(this first paragraph only for those who have received a letter from Tony Abbott professing full or 100% etc faith in Geoff Bailey) : In your letter to me dated, you stated that you had 100% (or whatever the letter said) faith in Trust Executive Director Geoff Bailey. (or whatever were Tony Abbott’s actual words)

In light of inconsistencies in what Mr Bailey and his Deputy Executive Director Nick Hollo have said about the process by which the aged care home proposal came to be received and selected by the Trust and in view of the lack of transparency and unresolved questions about due process and due diligence, it would appear that such faith in Mr Bailey and in the processes of the Trust may not be warranted.

- *The Trust has **lost direction***

¹⁷ Letter from National Trust to Mr Geoff Bailey of Sydney Harbour Federation Trust, dated 26.2.2014

¹⁸ Statement by Trust Executive Director Geoff Bailey at public board meeting of the Trust 11.12.2013

Until recently, the Trust has been generally praised for the way in which it has carried out the objects of its Act in relation to the preservation and conservation of the heritage buildings within its control.

Trust Executive Director Geoff Bailey stated in a recent public meeting that the Trust sought to find uses for buildings and land that would fit well in public parkland and cited such uses as sporting facilities and child care centres that would enable as many people as possible to enjoy the parkland.¹⁹

However, a commercial aged care home providing exclusive use of parkland for full time residential accommodation of a small number of persons would be radically different from the sort of uses Mr Bailey cited. It would also be quite incompatible with the statutory objects of the Trust, its vision and the goals set out in its Management Plan for the area.

If the Trust indeed considers that an aged care home would “fit” within those objects, vision and goals, then it would appear that the Trust has lost direction.

¹⁹ Statement by Trust Executive Director Geoff Bailey at public meeting 10.4.2014 at Mosman Senior Citizens Centre