
Sent: 9/07/2015 10:57:26 PM
Subject: FAO: John Slater & David Auster
Attachments: Response to S96 Fence 08 July 2015.docx;

Re: Section 96 Application Number: Mod2015/0121 & DA2013/0677

Please find the attached submission relating to the above DA.

Regards,

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Warringah Council
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9th July 2015

**Re: Section 96 Application Number: Mod2015/0121 & DA2013/0677
4 Notting Lane, Cottage Point 2084**

Dear Mr John Slater & David Auster,

We have the following concerns in relation to the fence which has been erected on the boundary between Lot 3 and No 4 Notting Hill Lane.

1. Significant Fire Risk

Fence posts and rails have been constructed with AS 2858 softwood or treated pine and therefore fail to comply with bushfire requirements for a non-combustible fence. Cottage Point is located in a bushfire prone area and a timber fence poses a very real threat from fire or ember attack.

Extreme emphasis was placed on reducing fire risk as a key aspect of approving DA2013/1263 for Lot 3, during which time the applicant and local community pursued an uncompromising agenda of strict compliance. It seems incongruous now that a flammable structure could be considered reasonable to build within 20cm from the neighbouring house and 90 cm from our approved dwelling.

The bushfire risk assessment for DA2013/0677 recommends that all aspects of the construction shall comply with the requirements of BAL-29 and new fencing should be in accordance with Rural Fire Service "Fast Fact 2/06". This RFS [Fast Fact document](#) states that "Where a fence has less than 1 metre separation from a dwelling it should be constructed from non-combustible materials only" and "Dwellings assessed as requiring BAL-29 construction shall have fencing constructed from non-combustible materials (e.g. metal or masonry)". This is due to the increased likelihood of direct flame contact causing ignition of combustible materials which may provide a fire path to a dwelling.

The more recent bushfire report dated 26-May 2015 bases its recommendations on "specific advice that the new fence replaced an existing treated pine fence in a similar location" and can comply with the 'Specific Objectives' for infill development 'providing better bushfire protection... than the existing situation.' However there has not been a treated pine fence at the site in the 2.5 years that we have owned the property and there is no indication of any fence on the detailed survey report dated 2009. So the new fence presents a significantly greater fire risk compared to the existing low masonry wall that now forms the base of the timber construction.

It is also noteworthy that Lot 3 was designated the highest possible fire rating of BAL-FZ and BAL-40 in that same westernmost area – due to the close proximity to the bushfire hazard.

2. Excessive Height

The size and design of the fence are not consistent with the plans approved by Council which allow for an “Open Aluminium or Steel Framed Boundary Fence”. The height of the fence is variable and exceeds 3.3 m in several places – almost twice the permissible limit of 1.8 m. This causes loss of views and has a negative impact to visual amenity of our property. The DA approves a fence where one section only may be up to 2.4 m high. We appreciate that the steep gradient makes it difficult to comply with the height restriction; however a solid 3.3 meter fence is unnecessarily high.

3. Cladding Issues

We do not support the proposed use of cladding as a remedy as it has no aesthetic merit and is out of character with the fence structures used on other nearby residences. Cladding is an unsightly compromise rather than a reasonable solution. Moreover, we believe that the use of cladding will encroach on our already narrow section of land. The S96 application states that the fence is built entirely within the property line of No.4 Notting Lane and is not a "Boundary Fence". However the detailed survey of Lot 3 shows the gutter at the north-western end of no.4 Notting lane encroaching on Lot 3 by distances of 6 – 10cm. When a weighted plumb line is dropped directly from this gutter it suggests that the new fence has been built beyond the boundary line in places.

Given the long protracted approval process for our DA, where a great deal of time and expense was required to eliminate the threat of fire and satisfy other aspects of compliance, it beggars belief that this fence was erected without any prior consultation with us or the Council. It suggests a cavalier disregard for Cottage Point community concerns and would make a mockery of our DA approval with its specific emphasis on fire risk reduction. We therefore strongly recommend that the existing fence be replaced with a compliant structure.

We regret having to write this letter but as we were not consulted at any stage during the planning, construction or proposed remediation we are left with no alternative but to raise our submission via council.

Thank you for your consideration of these matters.

Yours sincerely,
David & Emma Holmes

