



17th January 2022

Pauline Rose Fielder and John Fielder, Northfield Constructions, Licenced builder 172664c

83 Bynya Road Palm Beach NSW 2108

Attention...

Julie Edwards Northern Beaches Council PO Box 82 Manly NSW 1655

Reference... 1 Norma Road Palm Beach NSW 2108. Construction of a Swimming Pool. DA2021/2547

Dear Julie

We strongly object to the location of the proposed new swimming pool at 1 Norma Road Palm Beach.

We are also disappointed at Northern Beaches Council Notification Map, we believe an inadequate selection of property owners to identify issues of concern in relation to the proposed new swimming pool development.

The owner of 5 Norma Road has not been notified by council. Number 5 Norma Road shares a property boundary with the development, has a clear visual impact of the unsightly concrete walls which will not be screened by the proposed landscape plan. The house at 5 Norma road is close to the development, why has the owner not been notified ? The owner has expressed objections to the pool height poles and position.

Why have the owners of 75 Bynya Road, (on the south side of 83 Bynya Road) which has clear vision of the pool height poles, not been notified of the development. The owners have also expressed objections to the pool height poles and position.

However four homes to the west and across Bynya Road which are over a hundred metres away from the development and have no vision of the development (Numbers 72,74,76,78 Bynya Road) are on councils Notification Map ?

Our reasons for objection are

MASTER SET PLANS and SURVEY

The measurement from the pool south east corner is 1.030m from the boundary of 83 Bynya to the pool water inner wall, there is no measure from the boundary to the pool outer concrete wall which is the normal defining measurement as per the LEP! I am a licenced builder who has contracted the building of many swimming pools, observing the architectural plans (structural plans are not supplied) which show a massive pool tank and balustrade some 6.00m above natural ground level and supported by concrete piers, I estimate the concrete wall thickness to be .500m. This allows only .530m to our boundary. On the top of the pool wall there is a wider than pool wall walk way, this will measure the pool almost on the boundary.

The pool concrete outer wall to 83 Bynya boundary measurement (Side setbacks) do not comply to Section 4.15 (1)(iii) of the Pittwater Development Control Plan Act. The Development Control Plan states,

Side setbacks : 2.5m one side

1.00m to other side



Measured at 90 degrees from the boundary

The Statement of Environmental Effects by BBF Town Planners admits the proposed pool plans do not comply with the Pittwater Development Control Plan. (page 17, table 5.3)

The landscape plan is vastly flawed on all sides of the proposed pool. (Please see Bushfire Report BAL-FZ which will only allow small shrubs). Our precious unique lower east garden will be overshadowed by the massive south elevation concrete pool wall, balustrade and concrete piers almost 6 metres high with little landscape screening possible. This will destroy a delightful private peaceful serene natural native garden with large 5.500m sandstone cliff overhang (cave) which was one of the features that desired us to purchase the property 23 years ago. (Please see 5 photos)

We will have to view a massive offensive protruding concrete tank from our living room, lounge room and deck, this will destroy our present peaceful views.

The north east corner of the pool is a similar situation. The measurement from the pool north east corner is .880m from the boundary of 3 Norma Road to the pool water inner wall, there is no measurement from the boundary to the pool outer concrete wall. If .500m is allowed for the concrete pool wall then the pool wall to boundary .380m. On the top of the pool wall there is a wider than pool walk way, will this measure the pool to the boundary and over? The LEP states side setbacks of 2.5m one side and 1.00m the other.

How is landscape planting possible with little planting land and the concrete, stone steps to the pool room. The north east concrete pool wall will be a terrible site to view for the owner of 3 Norma Road and 5 Norma Road compared to the delightful serene private garden view they now enjoy.

We believe Council must reject approval of this proposed swimming pool development Master Set Plans as not compliant to the Pittwater Development Control Plan

LANDSCAPE REFERRAL RESPONSE

Northern Beaches Council Responsible Officer Julie Edwards has failed to determine the Bushfire Report, BAL-FZ 3959-2018 FLAME ZONE. In her Recommended Landscape Conditions : NIL

BUSHFIRE REPORT

The Bushfire report by Bushfire Consultancy Australia assesses the development,

Quote "Summary"

"Based upon the relevant provisions of PBP the anticipated radiant heat attack for the site is >40kWm² and the subsequent bushfire attack level is BAL-FZ 3959-2018"

Bushfire attack level FZ, FLAME ZONE is the highest possible rating, a great danger to property and human life. The existing home at 1 Norma Road has external timber and no bushfire shutters to the windows and doors.

The timber deck adjacent to the pool top is not permitted with Bushfire Flame Zone rating.

Page A105, A106 "Landscaping" of the Master Set Plans illustrates 4-6 metres high screening vegetation of the massive concrete pool sides. This is not permissible under the Bushfire attack level BAL-FZ 3959-2018, Flame Zone. Only small shrubs are permitted.

There is no Flame Zone assessment of the proposed landscaping in the Bushfire Report or Flame Zone landscape plan with the development application.

AS3959-2108 C3.5 Shielding Provisions-Flame Zone, Standards for Asset protection Zones SPP.7, Appendix 4 PBP 2109, apply to the development application for the life of the development.

Thus, the massive protruding offensive concrete tank will be exposed and a giant scar on the natural landscape when viewed from local neighbouring properties and the Whale Beach area in general.

This is not acceptable under the provisions of the Pittwater Development Control Plan,

see quote below,

“Bush Fire Prone Land”

“New development or Building Work on this land must comply with the requirements of the NSW Rural Fire Service Planning for Bushfire Protection AS3959-2009”

“Proposed development (including new landscape) conforms to the relevant specifications and requirements of Planning for Bushfire Protection 2019 and SA3959-2009”

“Development Applications on land that has a Bushfire Attack Level Flame Zone Rating (BAL-FZ) will be referred to the NSW Rural Fire Service”

These are statutory laws passed by the NSW Parliament and can not be ignored.

GEOTECHNICAL REPORT

At an onsite meeting in June 2021 with myself John Fielder, Tony and Carolyn Ziegler and Geotechnical Engineer Mark Bartel from Assetgeoenvir, Mr Bartel expressed great concern that any pool building, excavation near the sandstone cliff overhang, rock shelf may cause the collapse of the large cliff overhang (cave) in our property 83 Bynya Road. (Please see photos.) Mark Bartel informed us that as a licenced and qualified Geotechnical engineer he had a “Professional Responsibility” to inform people of “Risk to property” and “Risk to Life”

Section 5.8 of the Geotechnical Report by Assetgeoenvir, “Adjacent Development” does not address these concerns!

Before any development site in the east side area 1 Norma Road is assessed, grassed lawn adjacent to the home, sandstone cliff overhang and east property lower garden below the cliff, council must ensure the Geotechnical report is amended to include the probability of collapse of the large 5.50mts cliff (cave) sandstone overhang in our property 83 Bynya which is only a couple of metres from the proposed pool development.

Failure of council to address this issue and possible future collapse of the sandstone cliff overhang (cave) at 83 Bynya road lower east garden will result with expensive remedial work and legal proceedings to recover costs and compensation for loss of property value from Northern Beaches Council, engineers, pool builders and the owners of 1 Norma Road.

STATEMENT OF ENVIRONMENTAL EFFECTS

The Statement of Environmental Effects we believe is flawed with many false and inaccurate statements.

Page 5, 1.3 Pre-Da lodgement neighbour consultation.

On no account did we agree to a suspended pool development east of the sandstone cliff overhang. We believe the appropriate site for a swimming pool is below the east side concrete house deck in the grass lawn above the sandstone overhang or down in the lower east garden over the sandstone overhang cliff on a similar level with the pool at 3 Norma Road.

Page 17, 5.3 Principal Built Form Control.

Pittwater Development Control Plan side setbacks do not conform and building envelop heights do not conform. Council must not approve flexible application in reduced setback (boundary to pool outer wall measurement) and increased height (maximum height 1 metre) above the Development Control Plan as this is a high visual impact development stuck out over a cliff and the landscape plan is not acceptable in a bushfire Flame Zone Area. We will all view a massive concrete tank protruding offensively out high from the cliff.

Landscape Area. The 1 Norma Road property development exceeds the minimum landscape area requirements. (see table 5.3)

Quote "The design promotes the desired landscape character of the area through retaining the existing rock shelf,"

We view this as a gross inaccurate statement, when the master plans are studied almost all of the rock shelf is covered by hard terrace and pool. A timber deck is not permissible with Flame Zone Bushfire rating, this will be required to be a hard concrete surface that will further reduce the soft landscape area by 30m. The Development Control Plan states a minimum landscape area of 60%, with the pool development and recent concrete pavement areas around the property completed calculations reveal less than the stated 43.5% is soft landscape. We believe this does not comply with the Pittwater Development Control Plan and compliance is necessary.

Page 22 Residential Development Controls Scenic Protection-General

Quote

"The proposed development will be within a hillside landscaped setting and will present appropriately to the street. The proposal is of a character and scale that will be compatible with other dwellings within the site's context"

The development application is for a swimming pool, not a dwelling! The swimming pool development would be appropriate in the lower east garden below the sandstone cliff overhang on a similar level with the pool at 3 Norma Road property and we believe would comply with Pittwater Development Control Plan.

Page 6 2.1 Site and Location Description

Quote

"A swimming pool is located within the northern adjacent property at 3 Norma Road and to the south at 75 Bynya Road in similar locations to that proposed on the subject site."

We believe the above statement is grossly inaccurate, both adjacent swimming pools are sited low in the eastern garden below the sandstone overhang cliff, no view is lost by neighbouring property owners, the pools are screened by landscape from the Whale Beach area in general.

The proposed swimming pool at 1 Norma Road will be above the sandstone cliff, a massive offensive protruding concrete tank will be visible to all neighbouring property and the Whale Beach area in general, landscape screening is not possible due to Bushfire Flame Zone impact.

SUMMARY

We believe the Development Application must not be approved, the development Application is flawed with many inaccuracies and is not compliant with Section 4.15 of the Environmental Planning and Assessment Act, 1979, Pittwater Local Environmental Plan 2014, State Environmental Planning Policies-as relevant, Pittwater Development Control Plan.

We strongly believe should council approve this development application for a proposed new swimming pool the approval will be rejected in the Land and Environment Courts.

Yours faithfully

Pauline Rose Fielder and John Fielder