
Sent: 24/11/2020 2:24:15 PM
Subject: Mod2020/0582 DA2018/1892 [WBNSW-ClientDocs.FID1612533]
Attachments: Letter to Council re Objection.pdf; Letter from Council.pdf;

Dear Nick

Please find enclosed our submission to the abovenamed proposed development summarised as Mod2020/0582 DA2018/1892.

Kind Regards

Cameron Johnstone
Director



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22 November 2020

Northern Beaches Council

PO Box 82

Manly NSW 1655

Dear Sir/Madam,

We refer to DA 2018/1892 and the request for amendments to the DA in a letter from Nolan Consultants written on behalf of the owner of 7 Pavilion Street Ms Megan O'Leary. In her application, the owner seeks to amend the approved plans to incorporate "a 1.94m high framed glazed panel to form part of the swimming pool fence". The reason used by the owner to justify the proposed amendment is ".....to provide a higher pool fence to improve safety to the occupants".

We strongly object to the amendment on a number of issues:

1. Mod 2019/0173 approved the height of vegetation on the Eastern side of the site to be maintained at a height not exceeding 1.8m as measured from the ground level adjacent to the trunk. The reason for the approval was to protect the local amenity and views.

Yet this proposal is for a fence to be at a height of 1.94m. This is contradictory.

2. I swam at Freshwater beach today and observed the temporary glass fence from the beach. The claim by Nolan Planning is the external finishes and colours are sympathetic to the natural and built environment. Have you seen the temporary fence from the beach? It's hideous.
3. It is claimed the proposed amendments are **minor amendments** to provide a higher pool fence to improve safety to the occupants. An increase of .74m isn't **minor**. It's more than 60% increase in the original height of 1.2m.
4. A requirement of the DA is the view sharing is to be maintained. It is alleged the proposed amendment to the pool fence will not obstruct views. The pool fence is predominantly glazed and located at ground level. This statement isn't accurate for Units 1 and 2, 5 Pavilion Street, Queenscliff.
5. It is claimed the pool fence height of 1.2m is inadequate in this area. People (particularly children) utilizing the deck area could easily climb the 1.2m approved fence and the topography of the site is such that there is a drop in excess of 20m.

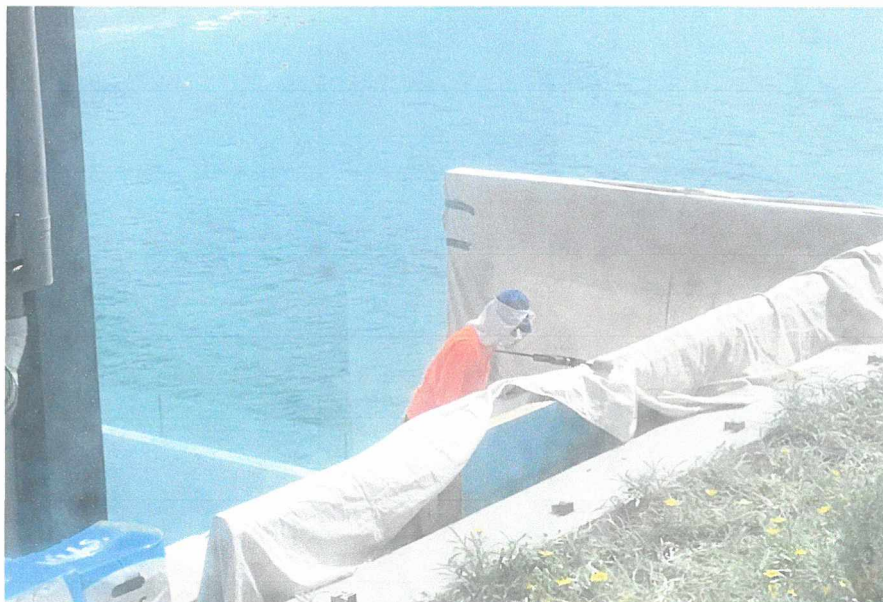
I strongly rebut this as NSW Fair Trading would have considered this when they introduced their rules. Pool fence heights are stipulated to be sufficient at a minimum of 1.2m in height¹.

With respect to the safety concerns raised, we fail to see how constructing a 1.94 meter high window frame along app. 10% of the cliff edge, when the remaining 90% of the cliff edge of the property has a low (1.20m) and extremely low (0.60m!!) glass fencing (the latter along the wet edge of the pool). We believe the only way to address the owners safety concerns, if they are genuinely concerned about safety, is to propose to construct a 1.94 meter glass fence along the full cliff edge of their property. However, instead the owner has installed the lowest possible glass fencing along the wet edge of the pool, so that along the wet edge her views are not impacted by glass fencing. She does not appear to have any safety concerns whatsoever when it impacts her views, yet raises safety concerns when it is about an improvement that impacts her neighbours views but not her own.

Below, please find two photos demonstrating the significant impact of proposed amendment has on the water views of the surrounding units and dwellings and a photo regarding the proposed amendment does not address the 'safety concerns' raised by the owner.

Photos showing the impact on the views of surrounding units and dwellings

Below please find a photo demonstrating the significant impact the proposed amendment has on the water views of the surrounding units and dwellings.



¹ <https://www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/pools-and-pool-safety/pool-fencing-requirements#:~:text=In%20NSW%2C%20a%20pool%20fence,must%20be%201.8m%20high>

Photos regarding 'safety concerns'

Below please find a photo demonstrating how difficult it is to believe the genuine nature of the safety concerns raised by the owner.



It is my understanding there are a large number of areas where the development does not comply with the DA, in addition the owner of Number 7 Pavilion Street has indicated they propose to build a cabana over the deck area which will further impact the views. We list some of the items below where we understand the development undertaken doesn't comply with what has been approved.

1. Proposed development encroaches on the property of Nr. 5 along the full boundary line. A concrete slab has been poured and several services have been installed over the boundary line;
2. The balconies on the west cliff side of the property seem to be constructed too far out. Based on the DA drawings, we would expect these balconies not to extend over the main wall, though they clearly do;
3. The property appears to be constructed significantly over the southern boundary line, making the narrow pedestrian path even narrower; and
4. Along the wet edge of the pool, glass fencing has been installed that seems to be 120 cm lower than proposed in the DA (the DA proposed 120 cm glass fencing along the full cliff edge of the pool).

Set out below are some photos of our concerns:



195 cm
timber frame

60 cm
glass fencing



We understand the owners of 5 Pavilion Street will notify the private certifier of these concerns in a separate letter.

Kind regards,

A handwritten signature in black ink, appearing to read 'C & L Johnstone', with a large, sweeping flourish extending to the right.

Cameron & Leanne Johnstone

owners of 2/5 Pavilion Street Queenscliff NSW 2096

C/ Belle Property

PO Box 43

MANLY NSW 1655



northern
beaches
council

13 November 2020



Cameron Matthew Johnstone &
Leanne Kim Johnstone
Care of: Belle Property - Manly
PO Box 43
MANLY NSW 1655

Dear Sir/Madam

NOTICE OF PROPOSED DEVELOPMENT

Modification No: Mod2020/0582 - DA2018/1892
Address: Lot 1 DP 900658 7 Pavilion Street QUEENSCLIFF
Description: Modification of Development Consent DA2018/1892 granted for demolition works and construction of a swimming pool
Submissions Close: 2 December 2020

I would like to advise you that the above Development Application has been lodged with Council. The applicant is Nolan Planning Consultants.

It is Council's practice to notify adjoining property owners and residents when Development Applications are received. This provides an opportunity for owners and residents to identify issues of concern in relation to the proposed development for Council's consideration.

You may view plans, associated documents and follow the progress of a Development Application on Council's website: www.northernbeaches.nsw.gov.au > Planning and Development > Building and Renovations > Application Search.

If you would like to make a submission the best way to do so is online, via Application Search. Alternatively, you may email: council@northernbeaches.nsw.gov.au or write a letter marked to the attention of Development Assessment and clearly identify the application number, the address of the property on which the development is proposed and the reasons for your concerns. They must be lodged by the Submissions Close date.

Council will acknowledge receipt of all submissions. Any objections received will be addressed in the report prepared by Council as part of the assessment process. All persons who make a submission will be advised of the outcome of this Development Application.

Please read the important information contained on the back of this letter. Enquiries regarding this Development Application may be made to Nick Keeler on 1300 434 434.

Yours faithfully

Nick Keeler
Planner



1. Before making a submission

You should inspect the plans and read the accompanying information so you are clear on the details. Usually, the applicant will be your neighbour or their architect so you may be able to clarify any details or resolve any concerns by discussing it with them. If you decide to make a submission, please remember:

Council's assessment involves a process of balancing your legitimate concerns and the reasonable development rights of the applicant. Council has to evaluate both within a statutory planning framework and, in some cases may apply conditions to overcome legitimate planning issues.

Council is interested in your specific issues and these are best expressed in your own words and need not rely on lengthy references to provisions of planning instruments (LEPs and DCPs) – these references may distract from your immediate concerns.

When considering an application, Council will have regard to:

- Statutory requirement under the act;
- Adopted policies of Council; and
- Issues raised in written submissions.

2. Privacy and Personal Information and Government Information (Public Access) Act 2009 (GIPA)

The supply of personal contact information in a submission is voluntary under the *Privacy and Personal Information Protection Act 1998*. By including your contact information in a submission you are acknowledging that it will be made available for public view at Council and through Council's website. Personal information (phone number, address, name and email address) will be redacted (removed) upon request.

Any written submission you make is open to public scrutiny under GIPA. It will be available on Council's website and may be used in Council reports or court proceedings. In this regard, your comments should be restricted to the proposed development. Comments of a personal defamatory nature should be excluded and Council accepts no responsibility in this regard. In making a submission, you do so at your own risk. If you would like your submission to be kept confidential, you must provide reasons as to why your submission should not be made public and be marked "CONFIDENTIAL" for Council's considerations.

3. Amended Plans

If plans are amended you may be notified if Council's assessing officer considers the changes have greater impact on your property than the original. If you do not lodge a subsequent submission Council will consider that your concerns have been satisfied.

4. Local Government and Planning Legislation Amendment (Political Donations) Act 2008

If you or an associate has made a political donation to a Northern Beaches Councillor or provided a gift to a Councillor or an employee of the Council within the past two years and you wish to make a submission on this application you must make a disclosure. Further information regarding political donation disclosure and disclosure forms are available from Council's Customer Service Centre or on our website.

5. Consideration of Submissions

All submissions received from the same property, or on behalf of the same property will be counted as 1 submission.

Anonymous submissions will not be counted as a submission, however issues raised will be considered.

Petitions will be counted as a single submission with the number of signatures recorded.

Submissions received after the end of the notification period will be accepted at the discretion of Council staff.