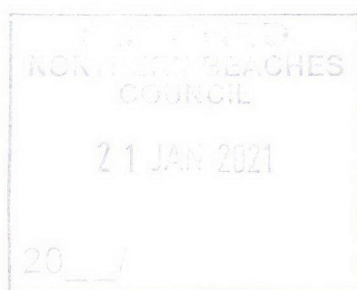


8 Pages attached

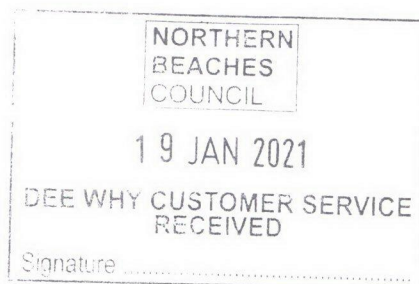


Ron and Helen Wheatley  
11 Bate Avenue  
Allambie Heights NSW 2100  
E: hrs2727@optusnet.com.au

19 January 2021

**BY HAND DELIVERY**

Northern Beaches Council  
Town Planning Department  
725 Pittwater Road  
Dee Why NSW 2099



Dear Sir/Madam

**Re: Objection to Development Application No. DA2020/1567**  
**Property: 9 Bate Avenue, Allambie Heights NSW 2100**

We are the owners of property 11 Bate Avenue, Allambie Heights.

We object to various aspects of the Development Application lodged by our neighbour, Vic Paice and Tracy Lea Kennedy, who own the adjoining property, 9 Bate Avenue, Allambie Heights NSW, to which this Development Application refers.

Location of structural works adjacent to easement

We note that State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides at clause 2.30 (Development standards) that (inter alia), the standards specified for the development must —

- (e) not redirect the flow of any surface water or ground water or cause sediment to be transported onto an adjoining property, and
- (f) if it is a retaining wall or structural support for excavation or fill, or a combination of both —
  - (iii) be located at least 1m from any registered easement, sewer main or water main, and
  - (iv) have adequate drainage lines connected to the existing stormwater drainage system for the site.

Apart from any issues of overshadowing and bulk of the development, there is a breach of the SEPP concerning the development being built less than 1m from the registered easement.

It is also noteworthy that the owners of number 9 have also carried out other improvements to their property in their recent ownership over the last year relating to the pool at the rear of that property. We have a diagram described as "site plan and site analysis plan" which shows that there is a paved area adjacent to the pool on number 9 which is built over the registered easement.

#### Water/Drainage

It is noted that a 150mm stormwater pipe crosses within the root area of the large Grey Gum in the front yard (this root area dimension is listed the arborist report. Refer to the arborist's report in DA2020/1567)

We also note that as a result of the works that have been carried out in regard to the pool on number 9, there has been excessive water problems in our yard since early February 2020 which include ponding and concentrated water flow. We have been obliged to try and clear away this water over time with additional drainage and cost.

We note that the increase of the building length and the driveway if built along the edge of the registered easement will decrease the absorption rate and help to direct water flow even more onto our property which already has had a major problem with ponding. Additional water flow will undermine the integrity of the registered easement. It is noted that there is already a large washout under an illegal carport near our boundary which exposes piping (photos and videos are available). In addition, the problems have been exacerbated due to the building of a pool during 2020 and also landscaping carried out under CDC2020/0047.

Refer Crozier Geotechnical assessment of conditions in Annexure A

#### Pool and Landscaping

We note that the new owners of 9 Bate Avenue had started and almost completed pool construction before approval (photo proof is available). The current survey also shows an encroachment of works onto the registered easement and over the 1m required setback off the easement in regard to the paved area adjacent to the pool. We also note that the proprietors' use of excess fill from the pool to fill the front yard greater than 150mm which has increased the RL levels of the property. According to the arborist's report (Refer to the arborist's report in DA2020/1567), this has possibly shortened the life of a mature grey gum. Additionally, the change in level has raised privacy issues for our property. In the event that fill is determined to have covered 25% of their property, they have breached SEPP 2.30 (g) of the Exempt Complying Development.

#### Shadowing

We have been served with shadow diagrams that are plainly incorrect. The North point is in fact the West point. The shadowing depicted in one of the diagrams is clearly incorrect as it shows the sun rising in the West.

We object on the basis that the proposed development will impact on both heating and cooling of our home. The proposed development will also result in the front yard of our property to be in shadow for at least half of the daylight hours.



We need to be served with accurate shadow plans so that we can see what the true effect of shadowing will be. Accordingly, the owners of number 9 should provide the Council accurate shadow diagrams so that we can evaluate these. Accordingly, submission dates in regard to objections should be extended.

Generally, we object to the overall height of the building improvements and note that our property will be significantly impacted by this in terms of both heating and cooling costs as mentioned above as well as a deterioration in particular winter sun in our outdoor leisure spaces.

#### Carport wall

The carport wall on the eastern side of number 9 is listed as "metal screen" when in fact it is asbestos. Our concern is that this asbestos wall is right beside our outdoor kitchen area and also internal kitchen.

We note that the building is at least 50 years old and would undoubtedly contain asbestos material elsewhere. In the event that building works are to be carried out then the Council should make it a requirement that appropriately qualified trades be engaged to remove existing asbestos so that there is no escape of asbestos fibre into the air.

We are concerned that any proposed development might disturb this asbestos and would like to know whether or not appropriate trades will be retained to remove the asbestos safely and in accordance with appropriate regulations.

#### Building Plans

The timing of the submission of the building plans made it extremely difficult to get opinions/letters/reviews from technical experts as most were either closed for the holidays or were at capacity for work upon their return.

Plans note a new **concrete** driveway. Per the arborist's report: Any formal surfacing of the existing compacted bare soil surface driveway within the TPZ radial of 8.76 metres from the tree trunk centre be constructed using tree root friendly materials. According to the plans, the concrete driveway is partially within this TPZ radial.

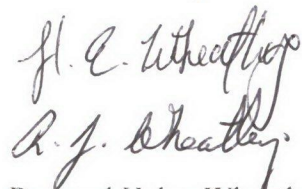
We note that the building plans in regard to the eastern wall has a statement "retain as required" in a few locations. We expect that surely the owners of number 9 know exactly the length and height to be retained as this description is very open and ambiguous. We note they have tried once before to raise and retain in the backyard which turned a 1.8m fence into a 1.4m fence with resultant privacy issues for us, i.e. people actually leaning on top of the fence and looking into our back yard. There appears to us no reason to retain coming out of the laundry side apart from a normal sized step to the back yard.

We also object to having 2 x (1800 x 600) windows in the garage for privacy reasons. We also object to the East facing opening 1400W x 1100H on 1st floor balcony for size and privacy reasons. We object to the East facing 1st floor 2170W x 1100H living window for the same size and privacy reasons. Finally, we object to the North facing 1st floor 900W x 2100H fixed stair window for privacy reasons. This window should be at least frosted glass.

We have sought legal advice in regard to issues generally and advise that we reserve our rights to argue the issue of Council not following the State Environmental Planning Policies in regard to the matters raised in our objection.

We would appreciate council noting our objections before making its assessment.

Yours faithfully

The block contains two handwritten signatures in cursive. The first signature is 'H. C. Wheatley' and the second is 'R. J. Wheatley'. Both are written in dark ink.

Ron and Helen Wheatley

Encl

**Date:** 15<sup>th</sup> January 2021

**No. Pages:** 4

**Project No.:** 2021-005

Ron Wheatley  
11 Bate Avenue,  
Allambie Heights,  
NSW, 2100.

Geotechnical assessment of conditions related to stormwater/groundwater flow into  
No. 11 Bate Avenue, Allambie Heights.

We attended site on the 11<sup>th</sup> January 2021 to meet with you and inspect the site conditions following your concerns regarding groundwater/stormwater flow into your property (No. 11 Bate Avenue) from the neighbouring property upslope (No. 9 Bate Avenue).

It is understood that significant volumes of stormwater have been flowing into your property from below the existing brick retaining wall on the common boundary. These volumes have increased, eroding a channel below the wall and depositing noticeable volumes of sediment into your site, which is understood to have occurred following placement of a swimming pool in the neighbouring backyard (No. 9).

It was noted that your property is located on the south side of Bate Avenue, within gently east dipping topography. The front of the property contains a gently sloping concrete driveway and lawns/gardens with a single storey residential house then formed on the centre of the block. A low (<0.75m) concrete block wall is formed along the west side of the house and supports the neighbouring property upslope above the level of your property. At the rear south-west corner of your house the block wall is replaced by a brick retaining wall before a brick and sandstone rock wall is in the process of being constructed within the backyard.

The neighbouring property No. 9 Bate Ave, is located upslope and contains a large open front yard with near level grassed driveway along the eastern boundary that provides access to a carport/garage formed on the eastern boundary, adjacent to the south-west corner of your house. Upslope to the west of the carport is a single storey residential house that appears of at least 50 years of age.

A review of publicly available satellite imagery indicates that an open lawn existed within this neighbouring backyard, however, from the recently submitted Development Application (DA 2020/1567), and your supplied photo's it is evident that a new pre-fabricated, inground swimming pool with spa and paved surround has been recently (January 2020) constructed in the backyard as part of a Complying Development Certificate (CDC 2020/0047).



It is understood that as of at least early March 2020 that significant volumes of stormwater inflow to your property have occurred. This stormwater is flowing into your property below the low brick retaining wall on the boundary, adjacent to the rear south-west corner of your house, and has created a scour/erosion zone due to its flow with significant volumes of soils deposited in your property and your drainage system, see Photographs 1, 2 and 3.

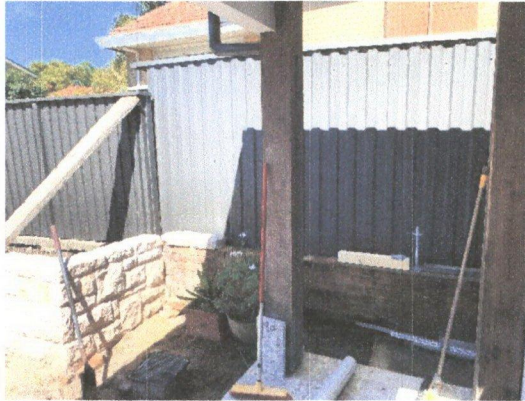


Photo: 1 – Brick boundary retaining wall at rear of house

Photo: 2 – Eroded channel below wall

Review of several supplied videos revealed that significant inflow events occurred on the 5<sup>th</sup> March 2020 and the 4<sup>th</sup> January 2021. A review of the Bureau of Meteorology (BOM) observation data showed the following daily rainfall recorded from nearby stations.

Station	March 2020			January 2021		
	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>
Collaroy (Long Reef Golf Club)	24.8	2.4	50.6	5.8	1.2	8.2
Sydney Observatory	22.4	8.0	40.6	7.8	0.6	13.0

Inspection through the eroded zone into the sub-ground area of the neighbouring property revealed a significant zone of erosion below what appears to be the neighbouring carport slab along with the exposure of a PVC pipe, which is understood to be related to a stormwater easement formed along the eastern side of No. 9, see Photographs 3 and 4.

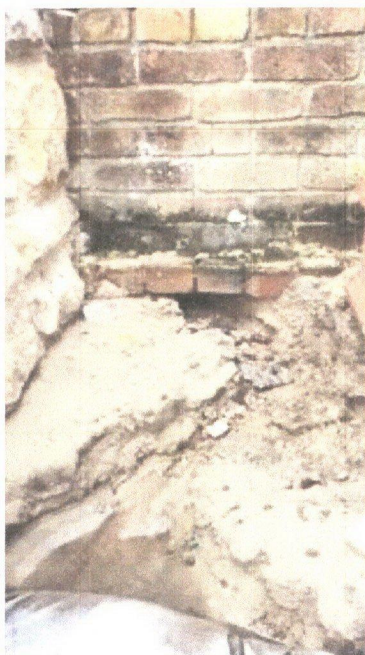


Photo: 3 – showing eroded channel below wall and sandy soil deposited into site after 4<sup>th</sup> January 2021

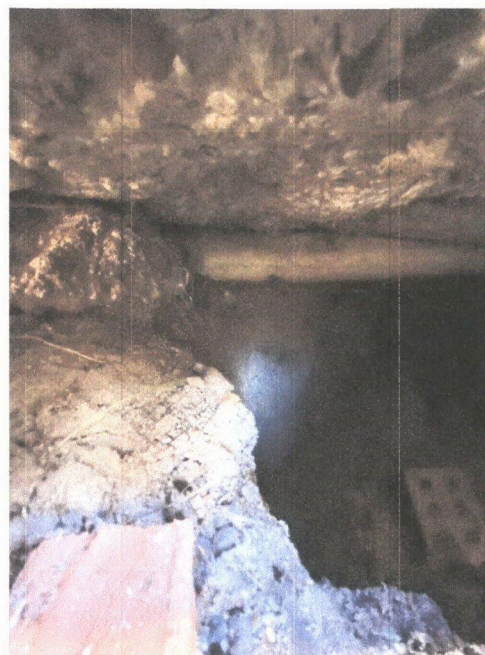


Photo: 4 - View of void eroded below neighbouring carport showing undermined PVC pipe near surface

It is understood from the survey drawings that a stormwater easement passes through this neighbouring property (No. 9) adjacent to the common boundary with your site, from the rear neighbouring property (No. 7a) upslope to the south-west.

**Geotechnical Assessment:**

It is evident that significant volumes of stormwater are flowing into your property from the upslope property (No. 9), during rainfall events. The BOM data suggests that the inflow events recorded are correlated to relatively average rainfall events and as such the volumes of inflow appear excessive for the rainfall received, indicating it is being concentrated and potentially collected from a large area.

It is therefore possible that the increased inflow is related to a separation/opening in the PVC pipe located within the stormwater easement that drains from the rear neighbouring property (No. 7a) through No. 9 due to age deterioration/vegetation growth into the pipe **or** it is related to the recently installed swimming pool in the form of collected surface and groundwater **or** damage to the pipework within the easement during pool/landscaping construction works.



As part of the construction of the new swimming pool within the neighbouring property it is evident that some excavation has occurred. The installation of a prefabricated inground pool requires a hydrostatic release for groundwater flow around the pool which would have been implemented due to the excavation into the slope, whilst increased hard surface area has been applied to the backyard. The excavation within the slope will be expected to result in a well into which groundwater will flow, hence the need for the groundwater release whilst the hard surface area will concentrate rainfall due to reduced transpiration area.

These factors will be expected to have resulted in the collection of water, by which the natural slope to the east will direct this water towards your property. The neighbouring property is near level to slightly depressed compared to the road reserve levels and as such efficient discharge of collected waters is limited.

The photos from the void created below the neighbouring property show a PVC pipe which is anticipated to be the drainage pipe which was installed within the easement. The pipe is now significantly eroded and undermined and will be expected to have complete failure in the near future with likely further increases of stormwater flow and subsequent detrimental impacts to your property. As such, the issues related to the inflow need to be resolved in the immediate future.

The recently submitted DA is for significant alterations and additions to the neighbouring house (No. 9) along with a new granny flat, garage and concrete driveway within this property, further increasing hard surface areas and as such stormwater collection. Without suitable collection and discharge to the street or a Council approved drainage system of existing stormwater collection and future collection there is a high potential for even further increased flow to enter your property with further detrimental impact.

Hope the above comments meet your requirements, if we can be of further assistance in regard to this matter please don't hesitate to contact the undersigned.

Yours faithfully,



Troy Crozier  
Principal  
RPGeo.: Geotechnical and Engineering