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**Sent:** 31/01/2020 3:44:51 PM  
**Subject:** Submission re DA2020/0012 from Jill McDonald  
**Attachments:** 8 Eungai Place.pdf; Fence 1.JPG; Fence 2.JPG; Fence 3.JPG; Fence 4.JPG;  
Fence 5 & Front Lawn Damage.JPG; Rear Backyard.jpg;  
8\_Eungai\_PI\_North\_Narrabeen\_NSW88B\_DP237442.pdf;

Dear Ashley and Northern Beaches Council

Please see attached letter from Jill McDonald, of 8 Eungai Place, North Narrabeen, regarding a submission for DA2020/0012.

We look forward to hearing back from you.

Yours sincerely

*Sharon Bain (Jill McDonald's daughter)*

Mobile: 0412-91 2415

Mobile: 0432-50 1117 Jill McDonald

Home: 9970 6327 Jill McDonald

8 Eungai Place  
North Narrabeen NSW 2101

31 January 2020

Ms Ashley Warnest  
Planner  
Northern Beaches Council  
752 Pittwater Road  
DEE WHY NSW 2099  
Submitted by email: [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Dear Ms Warnest

**RE: Application Number: DA2020/0012**  
**Address: Lot 218, DP237442, 9 Eungai Place, North Narrabeen**

I write regarding the above DA, notice of which I received as an adjacent neighbour at 8 Eungai Place, North Narrabeen.

I have the following concerns regarding the application:

- The occupant has already commenced what appears to be unauthorised works for the construction, including the removal of a rockery garden beside my property (without any prior consultation with me), and damage to my front lawn. In place of this, a new wooden retaining wall is in the process of being constructed, with additional posts and a string line, which look to be the start of a fence line, in the area of the Notification Plan that shows "not fenced". See 5 Photos attached named: Fence 1, Fence 2, Fence 3, Fence 4, Fence 5/Front Lawn Damage.
- I request that any approval provided allows for temporary fencing to be erected on the entire perimeter to protect my property from further damage. Tradesmen will not have my approval to enter the construction site from my property.
- The applicant has advised other neighbours verbally that he is "building a fence". Please refer to Attachment 2 which shows DP237442, outlining Terms of Easements and Restrictions.  
*"3 (a) (vi) No fence shall be erected on this lot between the road on which this lot abutts and the building alignment of this lot".*  
Applicable to lots 202-223 which includes both 8 and 9 Eungai Place.  
Please see attached a copy of the DP which confirms this.  
Please clarify what structure the string line represents as no fence is permitted in this location?
- There is no landscape plan provided with this DA. Please provide me with a copy of this plan prior to the close of submission date so I can review and provide any required feedback during the notification period.

- There is no information on the plans as to what the “new privacy screens” are on the first story addition. My concern is that based on previous “ad hoc” work at this property the screens may not be of a reasonable standard and appearance. Please confirm what materials, size, colour and texture that these are made from?
- A “Brush Fence” shows on the plan as being located next to my home. This would be considered inadequate in this location and a hard paling fence would be preferred. I require a sufficient fence to be provided from the rear of my property down to the house alignment where fencing is permitted to be erected.
- I am concerned about work times, noise and vibrations and possible further impact on my home and my health and declining lung disease. Any “Heavy Construction” requires a clear definition in any approval provided.
- There is no information provided as to who the builder is. Are these works to be carried out by the occupant? If so, does the occupant hold the relevant Building Licence and will comply with the Building Code of Australia?
- I am very concerned about the time that this will take. Please refer to the below regarding uncompleted works for the 2016 DA by the same applicant, same owner, same occupant and at the same property. 3.5 years later, this is still unfinished and I have the same concerns about the new DA and how long this will take to complete.  
As per the Home Building Act 1989:  
*3B (3) “It is presumed that practical completion of residential building work occurred on the earliest of whichever of the following dates can be established for the work:  
(d) (in the case of owner-builder work) the date that is 18 months after the issue of the owner-builder permit for the work”.*
- I raise now the previous DA for this property by the same applicant:  
**DA2016/286**, Alterations and Additions – Structural Landscaping Works involving construction of retaining walls and stairs.

In July 2015, large loads of sandstone rocks were delivered to the Council land opposite 9 Eungai Place. Residents did not know who was responsible for this delivery. I rang the Council who advised me that any future use of these rocks would require a Survey, Engineer’s inspection and a DA to proceed. Subsequently, this notification was sent in July 2016, 12 months after the rocks had been delivered.

The Structural Landscape Plan provided with this Notification shows a neat retaining wall, limited greenery and no further details. "Finishes" show sandstone steps, sandstone retaining walls fixed with a sandy clay seal, rubble backfill and mortar filled joints. Please refer to Photo attached: Named Rear Backyard, which shows, at 31 January 2020, the quality and current condition of the works, 3 years and 6 months after commencement. I am also very concerned about the possible movement of these rocks in the event of substantial rainfall and the impact this may have on my property.

During the construction process of this DA, I had stormwater from 9 Eungai Place running across the front of my property. This shows that sediment barriers used are not sufficient and are not retaining the stormwater within that property. I also had raw sewerage running down my lawns from when drains were moved by the occupant, who seemed to be doing most of the work himself. When this occurred, I rang Pittwater Council who instructed me to ring the Water Board, who attended. The occupant was advised to use a licenced plumber to rectify the work.

A landscape company, Fort Knox Constructions, was named on the Construction Certificate as the builder, however they were very rarely seen on site. Their website states:

***"Our team of qualified professionals complete all projects to the highest of standards and within the agreed time frame."***

I disagree with both sections of this – please refer again to the Rear Backyard photo attached which shows the quality and condition of the work. I understand the Council requirement is that the builder details are to be displayed clearly on site. Furthermore, there is no licence number on their website although they clearly state they are licenced and insured.

I am concerned that if this is the same builder for the proposed new works, they are not appropriately qualified to complete the works in a timely manner and to meet the Building Code of Australia. Clearly this has not been achieved on this previous DA.

The DA approval did state:

***"All works are to be carried out in accordance with the requirements of the Building Code of Australia".***

The DA approval also states:

*"Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:*

*In the case of work for which a principal contractor is required to be appointed:*

*The name and licence number of the principal contractor, and*

*The name of the insurer by which the work is insured under Part 6 of that Act.*

*In the case of work to be done by an owner builder:*

*The name of the owner builder, and*

*If the owner builder is required to hold an owner builder permit under that Act, the number of the permit."*

**RE: Application Number: DA2020/0012**

**Address: Lot 218, DP237442, 9 Eungai Place, North Narrabeen**

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Based on the previous DA, it is my concern that the works will be completed primarily by the occupant and not by Fort Knox Constructions (if nominated as the builder), or another builder. It is obvious from the previous DA that the works have been done on an owner/builder basis regardless of Fort Knox Constructions being nominated as the licenced builder. If this is the case with the new application, 18 months will be the time frame that works should be completed by.

Thank you for your consideration of my concerns and I would appreciate your update directly regarding my concerns and how these will be addressed in any approval, especially the major concerns of quality, workmanship, disruption/impact on my property and timelines for the completion of construction.

Yours sincerely

Jill McDonald

8 Eungai Place, North Narrabeen

Submitted electronically on 31 January 2020

























Substituted Instrument Lodged 7-2-1969.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER  
INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING  
ACT 1919

**DP237442**

(Sheet 1 of 3 Sheets)

Plan : D.P. 237442

PART I

Subdivision covered by Council  
Clerk's Certificate Number 6993  
of 1969.

Full name and address of  
proprietor of the land:-

F.C.A. Finance Limited a Company  
duly incorporated under the  
Companies Act 1936-1960 and  
having its Registered Office at  
Corner Bridge and George Streets,  
Sydney.

1. Identity of easement  
or restriction firstly  
referred to in above-  
mentioned Plan:-

Easement for drainage 6ft. wide  
and variable width.

Schedule of lots etc., affected

Lot burdened

Lots, name of road or Authority  
benefited

Lot 220

Kundibah Road.

2. Identity of easement  
or restriction secondly  
referred to in above-  
mentioned Plan:

Easement for drainage 10ft. wide  
and variable width.

Schedule of lots etc., affected

Lots burdened

Lots, name of road or Authority  
benefited

Lot 203

Kundibah Road

Lot 204

Kundibah Road

3. Identity of easement  
or restriction thirdly  
referred to in above-  
mentioned Plan:

Restrictions as to User. ✓

Schedule of lots, etc., affected

Lots burdened

Lots, name or road or Authority  
benefited

✓ Each Lot except Lots  
202 and 223.

✓ Every other Lot except Lots 202  
and 223.

PART II

1. Terms of Easement for drainage 6ft. wide and variable width firstly  
referred to in above-mentioned Plan:

Easement to drain water 6ft. wide and variable width as defined in  
the Conveyancing Act.

2. Terms of easement for drainage 10ft. wide and variable width secondly  
referred to in above-mentioned Plan:

Easement to drain water 10ft. wide and variable width as defined in  
the Conveyancing Act.



3

INSTRUMENT SETTING OUT TERMS OF EASEMENT AND RESTRICTIONS AS TO USER  
 INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING  
 ACT 1919

**DP237442**

(Sheet 2 of 3 Sheets)

Plan: D.P. 237442

Subdivision of land covered by  
 Council Clerk's Certificate No.  
 6993 of 1969.

3. Terms of restrictions as to User thirdly referred to in above-  
 mentioned Plan:

- (a) No building shall be erected on the land hereby transferred unless plans and specifications (conforming with the requirements of the Local Council) are submitted to and are approved by F.C.A. Finance Limited or architects nominated by F.C.A. Finance Limited; provided however such approval shall not be unreasonable withheld, and after the first day of January 1970 shall not be required, if such plans and specifications provide:
  - (i) that no walls of any such buildings shall be of any material other than Stone, brick, brick veneer, wood or glass or any two or more of such materials.
  - (ii) that not more than one (1) main building shall be erected upon the said land
  - (iii) that no main building shall be erected on the land hereinbefore described of a less value than Ten thousand dollars (\$10,000.00)
  - (iv) that no roof of any such main building shall be of material other than tiles or such other roofing material as may be submitted to and approved by F.C.A. Finance Limited or Architects nominated by F.C.A. Finance Limited.
  - (v) that no building erected upon the land shall at any time hereafter be used for any purpose other than for a dwelling house.
  - (vi) No fence shall be erected on this lot between the road on which this Lot abutts and the building alignment of this lot.
- (b) No advertisement hoarding sign or matter of any description shall be erected or displayed upon the land hereby transferred.
- (c) No trees shall be removed from the land hereby transferred without first obtaining the consent of the appropriate Officers of the Warringah Shire Council.

Name of person empowered to release, vary or modify restriction  
 thirdly referred to in above-mentioned Plan:

F.C.A. Finance Limited.

This is Sheet 2 of a 3 Sheet Instrument.....

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER  
INTENDED TO BE CREATED PURSUANT TO SECTION 88B of the CONVEYANCING  
ACT 1919

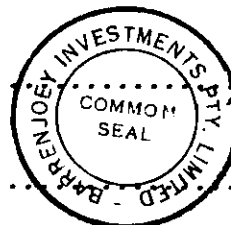
DP237442

(Sheet 3 of 1 Sheets)

Plan: D.P. 237442

Subdivision of land covered  
by Council Clerk's Certificate  
No. 6993 of 1969.

THE COMMON SEAL of BARRENJOEY  
INVESTMENTS PTY. LIMITED was  
hereunto affixed by order of the  
Board of Directors in the  
presence of:-



Directors

*Heather Ninistany*

Secretary,

AND WE HEREBY DECLARE that at the time of  
the execution by us of this instrument we have no  
notice of the revocation of the Power of Attorney  
dated 15th August 1987 from F. G. A. FINANOR  
LIMITED to us registered in the Miscellaneous  
Register No. 95301 under the authority of which  
we have executed the said instrument.

SIGNED in my presence for and  
on behalf of F. G. A. FINANOR  
LIMITED by Donald Keith Knox  
and Keith John Caldicott  
its duly constituted Attorneys who  
are personally known to me:

*D. Knox*  
*K. Caldicott*  
*H. Selby*

Warringah Shire Council

*Deputy Shire Clerk*  
DEPUTY Shire Clerk

L326448

Instrument pursuant to Regulation 52D Conveyancing Act  
Regulations, 1961, setting out the terms of easements or  
restrictions as to user created by registration of the  
within-mentioned Deposited Plan. 237442



*10/1/69*