
From: Jill Marsland
Sent: 12/05/2023 10:46:22 AM
To: Council Northernbeaches Mailbox
Cc: George Youhanna
Subject: TRIMMED: Objection to DA2023-0416 - 10 Beverley Place, Curl Curl
Attachments: Ltr - Northern Beaches Council - Objection to DA2023-0416 - 10 Beverley Place Curl Curl - 12-05-23.pdf;

Attention: Grace Facer

Please find our letter attached.

Kind regards,

Apex Planning and Environment Law

Jill Marsland

Associate Solicitor

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Ref: 013/2023

12 May 2023

General Manager
Northern Beaches Council
PO Box 82
MANLY NSW 1655

Attention: Ms Grace Facer

By e-mail

Dear Sir / Madam

YOUR REFERENCE: DA2023/0416
PREMISES: 10 BEVERLEY PLACE CURL CURL

1. We act for Mr Steve and Mrs Kay Barrett, of 7 Beverley Place, Curl Curl (“our Clients”). Our Clients’ property is located immediately adjacent to the northern boundary of 10 Beverley Place (“the Premises”).
2. Our Clients have instructed us to lodge the following submission objecting to development application DA2023/0416 (“the DA”), in particular the location of the construction of the proposed swimming pool along the northern boundary of the Premises.
3. Our Clients do not object to the construction of a swimming pool on the Premises but strongly oppose it being constructed in the currently proposed location.
4. Our Clients consider that the location of the proposed swimming pool is wholly inappropriate having regard to the topography of the Premises; the extent and nature of the proposed excavation; and the proximity of the proposed pool to our Clients’ dwelling. The front yard or rear yard of the Premises are far more suited to the construction of a swimming pool.
5. Our Clients have provided us with the following photos as to the proposed location of the swimming pool and the intention of the owners of the Premises to excavate into rock. That rock, as is evident in the photos, is shared by our Clients. Any excavation that occurs to that rock is very likely to negatively impact on the structural integrity of our Clients’ dwelling. In this regard, our Clients note “Hazard Four” identified on page 5 of the report of White Geotechnical Group dated 8 November 2022 (“Geotech Report”) submitted with the DA and reproduced below:

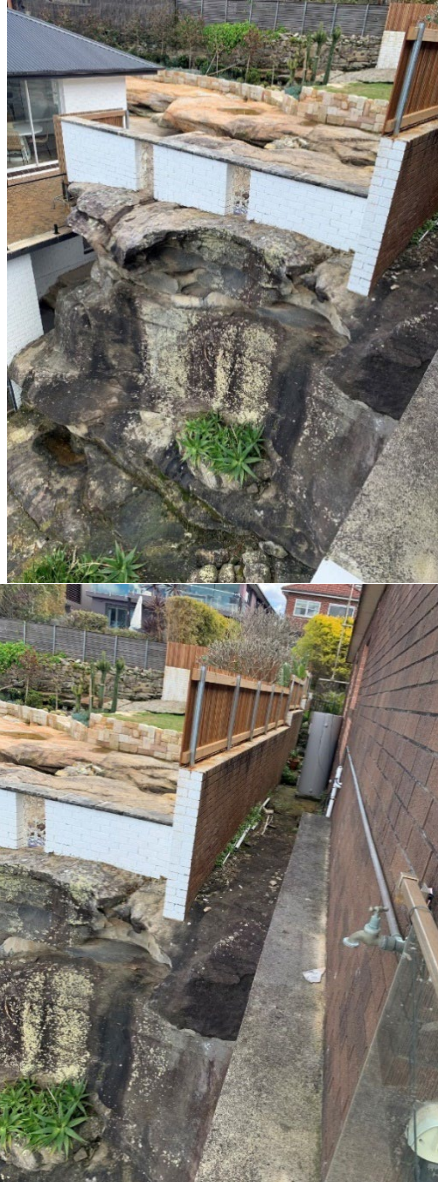
Hazard Four

The excavation for the pool (up to a maximum depth of 2.0m) collapsing onto the work site before retaining walls are in place

Our Clients strongly dispute the conclusions contained in the Geotech Report that Hazard Four poses an “Acceptable level of risk to life and property, provided the recommendations in Section 13 are followed”. The Geotech Report notes that the vibrations produced during the proposed excavation will impact on the surrounding structures and will cause an unacceptable level of risk. The mere fact that such an excavation is contemplated and relies on recommended action being followed is indeed unacceptable. Our Clients need better protection and more assurance than mere recommendations. Further, the Geotech Report is based on preliminary and incomplete architectural plans – the referenced plans in the Geotech Report are dated 7.11.22 and the architectural plans submitted and relied upon for the purposes of the DA are dated 05.04.23.

6. We note that the proposal does not comply with the Council’s DCP requirement that the pool be setback 900mm from a side boundary. The proposal is to be setback from 745mm from the common boundary with our Clients’ property. In our opinion, the Council’s setback standard is inadequate but, in any event, the failure of the proposal to comply with the standard reinforces the concerns expressed by our Clients that the proposed pool location is wholly inappropriate.
7. The issues of concern as raised by our Clients are shown in the photos below:





8. In assessing the suitability of the site for the proposed development and the amenity impacts to adjoining neighbours, the Statement of Environmental Effects prepared by Vaughan Milligan Development Consulting Pty Ltd dated March 2023 (“the SEE”) has not taken into account the geological foundations of the Premises. The SEE has merely relied upon the Geotech Report, which our Clients say is wholly insufficient.
9. In assessing the DA, we request that the relevant Council officers conduct a site view of both the Premises and our Clients’ property; requests a complete set of architectural plans; and undertakes its own geotechnical investigations.
10. Having regard to the above matters, it is clear that the DA should not, and is unable to be, approved. We are instructed that should the Council grant consent despite the unacceptable merit matters and the inadequacies with the documentation identified above, our Clients will commence judicial review proceedings in the Land and Environment Court on the basis of the Council’s

error in exercising its statutory duties by failing to properly consider specifically identified relevant matters in a reasonable and objective manner.

11. Please contact us if you have any questions about this letter.

Yours faithfully

Apex Planning and Environment Law



Grant Christmas

Solicitor / Principal

Law Society of NSW:
Accredited Specialist (Local Government & Planning)

e: [REDACTED]
m: [REDACTED]



Jill Marsland

Associate Solicitor

e: [REDACTED]
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