

VERY URGENT - SUBMISSION TO THE NORTHERN BEACHES COUNCIL

ATTENTION MEGAN SURTEES

Reference – Construction of a swimming pool and 1.8 fence on boundary of No 1 Bubalo Street and the northern boundary of No 30 Baz Retreat WARRIEWOOD

Please note that we attended the Northern Beaches Council at Mona Vale on the 8th July 2020 to discuss the boundary and fencing issue. We were advised that the best and fastest method was to complete a form and they would get back to us quickly. We subsequently completed the form and lodged it with Council on the spot.

We subsequently waited some weeks with no response from Council. On the 28th July 2020 we followed up with the Council at Mona Vale and were directed to Sonia Mikelson located at the Dee Why office of Council (who we were advised was the Managing Director of Environmental Compliance issues). We were told that Sonia was at a meeting and would contact us later that day or have her assistant contact us. We were not contacted.

Today, 29th July 2020 we contacted the Dee Why office of the Council and were directed to Megan Surtees.

We refer to our telephone conversation today with Megan concerning the safety issue of the construction of a boundary fence between these two properties. She told us that she had the file for Lot 17 Bubalo Street, Warriewood and had completed a full site inspection of the properties.

We confirm her advice that the DA for a proposed swimming pool on No 1 Bubalo Street including fencing was passed by the Council and that time for submission's ended yesterday.

Megan kindly advised that we should put in an urgent submission to her today to review the safety issue concerning the construction of the proposed 1.8m fence on that lot (in consideration that we had actually made a submission to the Council on the 8th July 2020 prior to submissions being closed).

PART 1 OF SUBMISSION – identification of boundary location:

The background to this concern is that the Northern boundary of our [No 30] Lot 22 DP270907 Baz Retreat is shown on the registered deposited plan as a concrete retaining wall.

Whereas, our Landscape Designer has now identified that the retaining **wall appears not to be on the boundary** and our home builder, Clarendon Homes, obtained the attached survey plan that says that the northern boundary of our lot 22 varies between 0.25m to 0.27m on the other side of the concrete retaining wall.

Thus there is a discrepancy between the measurements on the northern boundary of the registered DP and the boundary on the survey report. We note that the Northern Beaches Council approved the DP which has been registered. Note that the DP shows the boundary of Lot 22 Baz Retreat is located on the concrete retaining wall.

Therefore the boundary appears not to be clear and the discrepancy needs to be resolved in order that the boundary for fencing can be determined.

PART 2 of SUBMISSION – safety concerns relating to pool proposal:

Please note that between the two properties, the owners have 5 small children.

We understand from Megan that a boundary fence has been passed for a compliant height of 1.8m for the safety of children pursuant to Council regulations when a pool is installed.

A 1.8m boundary fence between these 2 lots WILL NOT give safety to the children because:

There is a **one-meter difference in levels** between Lot 22 [No 30] Baz Retreat and Lot 17 [No 1] Bubalo Street. There is a gap of between 0.25 and 0.27m between the 1.8m fence and the concrete retaining wall.

A child standing on the top of the retaining wall could easily climb over the top of an 1.8 meter fence because **in effect** the height of the 1.8 meter fence on Lot 17 [No 1] Bubalo Street would only be 0.8m high on lot 22. Given that you are about to approve the pool with an approved 1.8m fence we submit that this would not meet safety regulations for the children on lot 22.

We understand that the most important regulation for approval of swimming pools is that they be fenced in a way that minimizes the risk of anyone accidentally falling into a pool, particularly children.

Part of the principle is that there should be nothing near the pool fence that could be used by a child to climb over the fence into the pool area. The retaining wall on lot 22 would only be 0.25m from the proposed 1.8m fence.

PART 3 – SUBMISSION – safety issues relating to the gap between the fence and retaining wall:

A dangerous narrow gap will be created between the retaining wall on lot 22 and the proposed 1.8m fence on lot 17 into which a child or pet could fall. It would be very difficult to retrieve a child or pet from such a narrow gap.

PART 4 – SUBMISSION- removal of concrete retaining wall:

Further to our discussion today when Megan suggested that we remove the concrete and steel retaining wall and landscape Lot 22 down to the boundary as it appears on the survey report, we point out that:

- (a) there is a discrepancy between the registered DP and the survey report on the location of the boundary which needs to be resolved;
- (b) we do not know for what purpose the retaining wall was built and that therefore removing the concrete and steel wall could cause unknown problems. We have attempted to clarify the purpose and correct location of the concrete retaining wall from the Developers of the Karinya Estate through our Solicitors, to which we have had no satisfactory response to date.
- (c) you will note on the registered DP that the concrete and steel retaining wall runs down the whole length of the Karinya Estate subdivision and therefore forms part of a number of other lots. The retaining wall therefore is not only on our land but runs down the length of the subdivision; and
- (d) given that the retaining wall is constructed of re-enforced concrete and steel it would be

very difficult and expensive to remove.

We submit approval of the proposed pool and 1.8m fence will create a safety issue for our children as described above. We also submit that the issue of correctly identifying the boundary needs to be resolved to clarify where the boundary fence should be built.

We ask for your assistance in resolving this matter as we do not wish to cause further distress to ourselves or to neighbours that we are to live next door to in our new homes.

Yours sincerely,

Nicole and Michael Gock