
Sent: 13/02/2019 6:38:53 PM

Subject: Development Assessment - Mod 2018/0575 - DA436/2008

Attachments: Submission re Proposed Development Mod 2018-0575 DA 436-2008.docx;

Attention Development Assessment,

As owners of 1-3 The Crescent, Manly (also known as 1 Commonwealth Parade, Manly), which is an adjoining property to 5 Commonwealth Parade, Manly, we received a Notice inviting submissions , dated 5 February 2019, on the Proposed Development Mod 2018/0575 - DA436/2008.

In response, please find attached a Submission from owners which, while not opposing the development, strongly requests that the Council adds two additional conditions of approval. We submit that these are necessary to protect the structure and integrity of our property and our amenity, given that the development involves extensive demolition, excavation and construction as close as 1 metre to our property boundary and as close as approximately 2 metres to bedrooms and other rooms in our building.

We thank the Council for their consideration of our submission.

Yours faithfully

Noel Purcell, Boronia Foley and Alex Manu

SUBMISSION FROM OWNERS OF 1-3 THE CRESCENT, MANLY

13 February 2019

NOTICE OF PROPOSED DEVELOPMENT Modification No: Mod2018/0575 – DA436/2008

Subject Property: Lot 2 SP 11874 - 5 Commonwealth Parade, Manly

DESCRIPTION: Modification of Development Consent DA436/2008 relating to a residential flat building

While we are not in opposition to the development, we are making this submission to ensure the integrity of our adjoining property at 1-3 The Crescent, Manly (also commonly known as 1-3 Commonwealth Parade, Manly) is protected during the development, with appropriate processes to assess any impact and to provide needed protection.

The potential impacts on the integrity of our building, and on our amenity, during construction are very real. The approved building and excavation line on the northern side is only approximately 1 metre from our adjoining boundary. Hence the need to ensure that all demolition, excavation and building is carried out in a way that fully protects our property from damage or impact.

In line with this, we are pleased that the Council, in its Notice of Determination dated 11-7-2018, added the Condition - ANS15 – that requires a Dilapidation Report on all adjoining properties to be prepared prior to the issue of any Construction Certificate. We note that The Dilapidation Report must:

- include a photographic survey of all adjoining properties detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items;
- be prepared by an appropriately qualified person agreed to by both the builder / developer and the owners of the adjoining properties; and
- all costs incurred in achieving compliance with this dilapidation report condition must be borne by the builder / developer

We submit that the additional requirement should be added to explicitly require that a full signed copy of the Dilapidation Report be provided to the adjoining owners (in addition to the Council).

We also note that the Council's Determination has highlighted several concerns relating to the protection of adjoining properties given the very close proximity to our allotment boundary and given the extensive deep excavations needed to create basement parking. Consistent with this, it is critical that the Council, or the Accredited Certifier (where Council does not issue the Construction Certificate) ensures that:

- In relation to DA31 – The Certifier needs to ensure that the demolition, excavation or construction activity will not build on or encroach over the allotment boundary or use the common boundary. Previously, owners in our building were contacted about the possibility of erecting scaffolding on our property as part of the construction. As this would pose very material issues given the likely impact on our amenity and property, nothing is to circumvent strict compliance with DA31, without explicit prior approval of the owners of our property and the Council. Any proposal, which may be put to us, to encroach over the allotment boundary or use the common boundary will need to contain comprehensive impact assessments, plus appropriate compensation for the impacts, together with a material bond to cover possible damage and impact on our adjoining property.

- In relation to DA40 – An accredited professional must provide a written assessment (to the Council, Certifier and adjoining property owners) on whether any excavation will extend below the level of the base of any footings of any building on an adjoining allotment of land. (It is likely that this is yes, Given the depth of the basement level towards the rear of the property relative to our property, we believe this is likely.) If the assessment is yes, the Certifier must ensure that the builder / developer will adequately support and protect the impacted neighbouring buildings in accordance with the requirements of the Building Code of Australia and the protection work is approved by the Certifier, and agreed with the adjoining property owners, before any excavation begins.
- In relation to DA48 - The Certifier needs to pre-approve measures to ensure that there is adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.

We submit, therefore, that the Council should add two further conditions of development approval:

- 1. A requirement that, prior to the commencement of any demolition or excavation work, the builder / developer must have an engineering and survey report prepared by an appropriately qualified person or persons, as agreed to by both the builder / developer and the owners of the adjoining properties. Should that report show that excavation will extend below the level of the base of any footings of any building on an adjoining allotment of land, an independent engineering report must be prepared and provided to Council and adjoining property owners showing:**
 - the measures and mechanisms necessary to protect the adjoining properties in accordance with the requirements of the Building Code of Australia; and
 - the mechanisms and devices to be used to monitor any possible impacts on adjoining properties from the demolition, excavation, building and construction during the ongoing work.
- 2. A requirement that nothing is to circumvent strict compliance with DA31 without the explicit prior approval of the owners of the adjoining properties impacted and the Council. Any proposal to encroach over the allotment boundary or use the common boundary will need to contain comprehensive impact assessments, plus an appropriate compensation arrangement for the property owners impacted, together with a material bond to cover possible damage and impact on our adjoining property.**

Additionally, we submit that the We note that the owners of the adjoining property on the southern side, at 7 Commonwealth Parade, Manly, have previously made a similar submission, dated 21-11-2018.

We thank the Council for their consideration of this submission.



Signed by Dr Noel Purcell on behalf of Boronia Foley and Alex Manu, owners of units within 1-3 The Crescent, Manly 2095