

9<sup>th</sup> April 2019

Renee Ezzy  
Northern Beaches Council  
725 Pittwater Road  
Dee Why NSW 2099

**RE: MOD2019/0029 – 46 Victoria Parade, Manly**

Dear Ms Ezzy,

As requested in our meeting held on the 20<sup>th</sup> March 2019, this letter addresses the matters raised via submission letters received by Council in relation to the proposed design modifications in MOD 2019/0029 to the approved residential flat building at 46 Victoria Parade, Manly.

As detailed in the application documentation the proposed further modifications which we have undertaken to the proposal (as previously submitted) in order to address the Local Planning Panels reasons for refusal of the previous application includes:

- Lowering the roof by a further 220mm RL20.98 (last application RL21.20);
- Chamfering the roof profile from gridline D at 14 degrees and sliding the front of levels 3 and 4 in an easterly direction by 600mm to reduce the shadow impact between 9am and 12 noon at mid-winter on neighbouring properties to the east of 46 Victoria Parade.
- Additional levels and dimensions are provided on the plans to enable a more accurate assessment of the proposal.
- A dedicated waste holding area is now provided to Dungowan Lane, adjacent to the visitor car parking. The Building Strata Management will arrange to take the bins from the bin storage area provided in the basement to the waste holding area the night before collection and transfer the bins back to the waste storage area in the basement immediately after collection.

A number of the matters raised in the submissions are quite repetitive, instead of addressing each submission, we have grouped the issues raised and address these in turn as follows:

**1) Overshadowing**

The revised application as submitted seeks to specifically address the reasons for refusal as raised by the Local Planning Panel, particularly in relation to overshadowing of the neighbouring building at 42-44 Victoria Parade, Manly and inconsistencies with the previously approved shadow diagrams prepared by Design Cubicle.

We note that many of the submissions raise issue with the shadow cast by the proposed development and the proposals compliance with Condition 101 of the DA Approval.

As submitted in our application documentation, we are of the considered opinion that the approved shadow diagrams prepared by Design Cubicle were generated using magnetic north and not true north (as required by the Land and Environment Court of NSW Practice Note for Class 1 Development Appeals), furthermore the window openings in the 42-44 Victoria Parade were not surveyed or plotted correctly, therefore resulting in shadow diagrams (as approved) which have a less than accurate depiction of the actual shadows cast by the approved development and their impacts. We note the comments provided in the submission by Mr Butson which allege that Design Cubicle verbally stated that their shadow analysis is based off True North, however our technical expert advice provided by Urbane Architecture is that this cannot be the case.

Notwithstanding the above, the shadow analysis prepared by Urbaine Architecture Pty Ltd has modelled and plotted the previously approved development (based on True North) and with correct window placements on the adjoining property at 42-44 Victoria Parade. The shadow diagrams also plot the comparison with the proposed development. We note that the analysis arising out of the previous application has resulted in further modifications to the building to ensure the proposals compliance with the intent of Condition 101 of the previous approval, which seeks to ensure that the windows and balconies of the neighbouring development at 42-44 Victoria Parade are not overshadowed to a further extent than previously approved.

The Shadow Analysis provide by Urbaine Architecture demonstrates the following outcomes:

- 1) That no east facing windows or balconies are affected by any further overshadowing by the proposed modifications to the approved development between 9am and 3pm on 21<sup>st</sup> June.
- 2) As indicated in yellow on the shadow diagrams the proposed modifications actually result in a net reduction in the amount of shadow cast;
- 3) A very minor amount of additional shadowing (indicated in red) is cast at 9am and 11am (21<sup>st</sup> June); however this additional shadow only falls on the wall of the adjacent building, not onto any windows or balconies.

It is therefore considered that the overshadowing impact that would result from the development as modified actually results in a significant net improvement from the approved development and does not adversely impact upon any windows or balconies of neighbouring properties.

## **2) View Impacts**

A number of the submissions raise concern with respect to view impacts. A detailed view analysis prepared by ARC Architects has been provided as part of the application documentation. Each of the wire frame views as provided in the view analysis is taken from the north easterly corner of the building (not the edge of the balconies), pursuant to the view corridor line as established in the Land and Environment Court proceedings. The RL heights are provided to each apartment. This view analysis details the modified floor to ceiling heights to the proposed building in comparison to the established view lines from each of the apartments at 42-44 Victoria Parade.

The view analysis clearly demonstrates that the established view lines of Manly Beach across the subject site as obtained from the relevant apartments at each of the levels within 42-44 Victoria Parade are retained and protected as a result of the proposed design modifications.

Furthermore, ARC Architects has reviewed the photographs as taken by Council from the top floor north easterly apartment in 42-44 Victoria Parade. The proposed building is not visible in any of

the photos provided, given that the building is significantly set back beyond the DA approved sightline. The sightline is clearly shown on the survey plan attached to the view analysis as provided with the application. The Level 4 floorplan attached to this response letter demonstrates the view line setback 2.1m at balcony and 3.35m to glass line.

It is considered that the proposed design is reasonable with regards to the constraints of the site and is compliant when assessed against the *Tenacity vs Warringah Council* planning principal for the analysis of view sharing.

### 3) Building Height

A number of the submissions raise concern with respect to the building height and revised floor to ceiling heights.

It should be noted that the building is **5 storeys**, not 7 storeys as advertised on Councils website and asserted in a number of the submissions received by Council. Furthermore, the overall height of the building has been **reduced** by 220mm from the previous application. The overall building height remains within the height of the approved lift overrun. The modifications to the floor to ceiling heights and resultant flat roof of the building are to ensure that the building now complies with SEPP 65 and the Apartment Design Guide (ADG) for residential flat buildings minimum floor to ceiling heights. It should be noted that the previously approved Section 96 Modification Application pre-dated the updating of SEPP 65 and the ADG and therefore due to the proposed amendments to the floorplans (amalgamation of some of the apartments as approved), the application was required to ensure that the entire building complies with the current ADG standards, this therefore requires that the floor to ceiling heights of the building be amended to ensure that compliance is met.

### 4) Enclosure of part of the rear balconies at Levels 1 and 2 (Condition 1)

We note a number of the submissions raise concern about the enclosure of part of the rear balconies at levels 1 and 2 only with respect to residential amenity to both 27 Ashburner Street, 42-44 Victoria Parade and compliance with the setback requirements pursuant to Condition 1. We note that this condition was imposed by the Court in order to protect privacy and amenity to number 27 Ashburner Street.

The proposed modification to the balconies is to levels 1 and 2 only, not the whole building as asserted in many of the submissions. Furthermore, it is to part of the balconies, not the whole balcony. All the balconies still comply with the 9.5 metre setback requirement pursuant to the requirements of the condition, with a minor encroachment to levels 1 and 2 to the 11 metre rear building line requirement (the enclosure results in a setback of 10 metres).

The privacy and amenity to 27 Ashburner Street and 42-44 Victoria Parade, will actually be enhanced as a result of the proposed modifications. The modifications result in a reduction of windows and balcony widths and provision of integrated privacy screens will actually enhance the privacy to neighbouring properties as a result of the proposed modifications to levels 1 and 2.

On this basis we request the deletion of Condition 1 in its entirety.

## 5) Landscaping

A number of the submissions claim that the proposal is devoid of landscaping. This is not the case and the landscaping will be carried out with the intent of the previous approval, compliant with Condition 92 of the DA Approval.

## 6) Level 4 Balcony (Condition 119)

We note that some of the submission raised concern with the amendment to the service balcony adjacent to the lobby area on level 4. Whilst the design of this lobby space has been amended as a result of the proposed modifications and previously we had proposed to delete this condition in its entirety; on reflection we now accept the requirements of Condition 119 to delete the planter box and comply with the glass balustrade requirement at this level.

We acknowledge that the contours of the 'cut out' to level 4 have changed slightly however this amendment combined with the chamfering of the roof, results in a similar shadow impact to the ground floor apartments in the south eastern corner of 42-44 Victoria Parade.

## 7) Modification to Condition 101 Wording

Upon review we propose that Condition 101 is not deleted in its entirety, but the wording is revised as follows (revised wording to the condition in bold):

*"The extent of the proposed west elevation (including new services at Level 4) is to be limited such that there will be no shadowing of **the east facing living room windows and balconies to the existing residential flat building at No.42-44 Victoria Parade** additional to that cast by the **approved modified shadow diagrams prepared by Urbane Architecture dated January 2019.**"*

*Reason: To reduce impacts on the amenity of adjoining residential properties.*

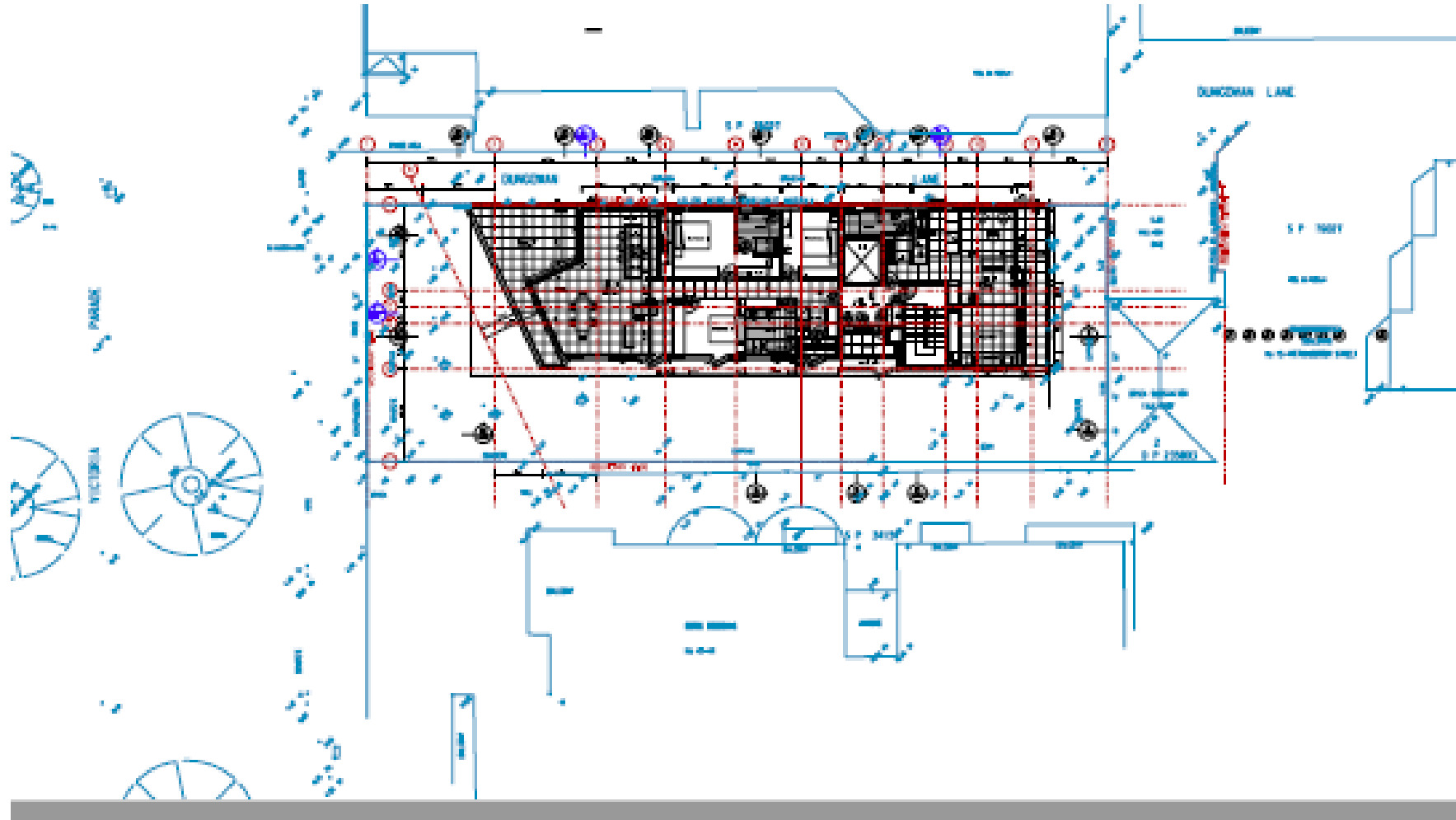
We trust that the contents of this letter adequately addresses the matters raised in the submission letters as received by Council and that the application can now proceed to determination.

Please don't hesitate to contact me, should you have any further queries.

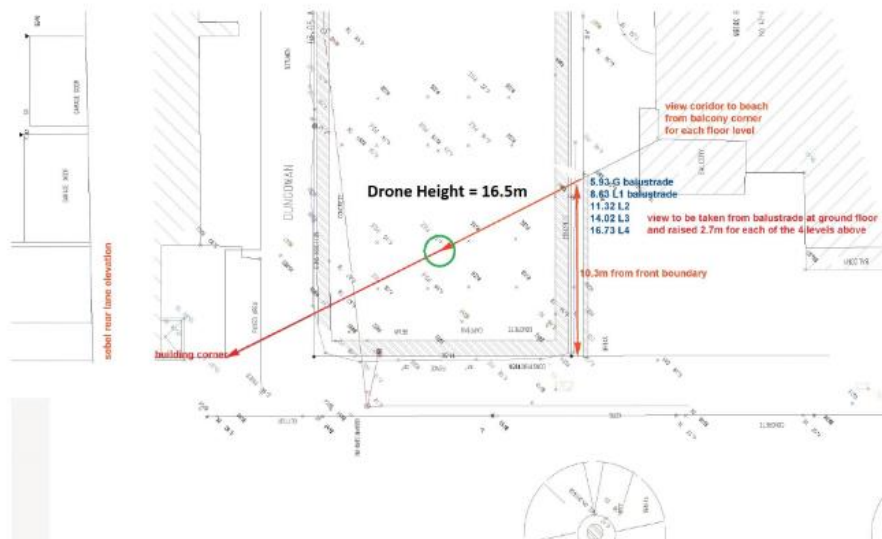
Regards,



**Kate Fleming**  
BBF Town Planners  
**Director**



Extract of Level 4 Floorplan demonstrating setback and established view corridor line.



**Extract of Level 4 View Analysis as submitted with the application. The view is taken from the north eastern corner of the building.**