
Sent: 2/11/2020 10:40:45 PM
Subject: Obejection MOD2020/0488

Dear Sir/ Madam,

An application for alterations and additions to the hospital (DA 2016/0737) was lodged with Council on 21/07/2017. A significant number of resident concerns were expressed in relation to the bulk and scale of the proposal and its relationship to the side boundaries of the allotment Council supported these concerns. The applicant then chose to withdraw the application. A Second Application (DA 2017/0446) was placed on notification to the surrounding property owners between 26/05/2017 to 14/06/2017 and again a considerable number of residents submissions were received. I have only reviewed a select few of these submissions, but they all seemed to raise concerns relating to the Height of the building, noise emissions from the building, its bulk and Land use incompatibility with the surrounding residential area. In addition non-compliance with various Council planning controls

In light of the areas of non-compliance and the number of submissions received, this application was referred to the Sydney Planning Panel – North for determination.

The determination:

As advised, the application was considered and approved subject to conditions by the independent Planning Panel on 20/11/2017. The height of the development was addressed in the Panel determination and final plans approved showing no additional structure on the roof.

The reason for including these conditions of approval is to demonstrate that Council and the Planning Panel has had regard to the residents concerns and imposed conditions to address these concerns.

Your and other residents concerns

During our phone conversations you and other local residents have expressed concern in relation to Air-conditioning units and mechanical vents that been installed on the roof of the development and also the height of the Acoustic Wall, breaching DA and additional restrictions that have been imposed by the Determination panel.

In summary the concerns of breach of DA are:

Maximum height has been exceeded by mechanical plant being placed on top of the roof, inclusive of the Acoustic screens.

Bulk and scale of the development has dramatically changed to that approved in the DA.

Concerns that the noise levels emanating from the non approved Mechanical Plant operating at all times of the day and night will breach those levels as conditioned in the approved DA.

Aesthetic of the building to surrounding residents, due to the installation of said plant, has been detrimental and was not

shown on the DA documents.

So where are we? Application for BC 2020/0065 was rejected by the council with recommendation to lodge Modification Application s 455 to DA2017/0446

The application for MOD 2020/0488

This is not a minor change to the DA that can be argued has been overlooked by the developer or caused by genuine error. The Council have to clearly see the intentions of the developer here and would have a difficult time to defend their decision for granting the approval should the local residents decide to take legal action.

Also this decision would highlight an inconsistency in the decision making process of the council that is absolutely contrary to the decision of the Determination panel.

This development has had an overwhelming response from the neighboring properties and I have no doubt that same response will be triggered by this application. The Council simply should not ignore the fact that the development hasn't been completed and certified and sequential conditions of approval the DA are not being followed.

Please note, that in order to determine an application for MOD2020/0488 council has an obligation to review all relevant Council records and documents relating to this development and any ongoing conditions imposed on this development.

Summary

Having now reviewed the documentation associated with this Application and all the history of the above DA you would have a strong case to take remedial court action should the council approve this Application.

Council have the obligation to review and take into consideration any preexisting conditions that formed a part of the approved DA, when assessing this application and the court will do the same. Therefore it would be a very bold and risky move from the Council to simply overwrite the Sydney Planning Panel's decision by approving this application and open itself to potential court proceedings.

Also I believe that the council would be opening themselves to future potential complaints from the neighboring properties or potential court action for granting this approval. This is highly possible considering the overwhelming response of locals towards this development.

The Air-conditioning units will most likely cause noise pollution once fully functioning and running 24 hrs a day. This is highly probable, as it appears, based on the information I have received, that the air vents and airconditioning units haven't been properly installed with the correctly installed Sound proofing enclosure using soundabsorbing material or any filtering barriers.

In addition were an approved acoustic method be used this would again dramatically breach the DA by significantly increasing the height, bulk and scale of the building. I cannot see how this can possibly be approved as this was one of the major objections of the neighboring properties that led to a reduction in height of the development and a conditioned final height in the DA

In relation to this you are correct that the council will face the risk that the recipient/applicant will appeal the Order/decision to the Land and Environment Court.

Regards

Martin Lowensohn
65 Quir St Dee Why