

**From:** [REDACTED]  
**Sent:** 12/10/2021 3:37 PM  
**To:** "Council Northernbeaches Mailbox"  
<Council.Northernbeaches@northernbeaches.nsw.gov.au>  
**Cc:** "'Boronia Foley'" [REDACTED]; "'Bolno1@hotmail.com"  
[REDACTED]; "'Natalie Habib'" [REDACTED]  
**Subject:** Submission on Mod 2021/0733 - DA436/2008  
**Attachments:** Submission re Mod2021-0733 - Development at 5 Commonwealth Parade.pdf

Attention Development Assessment,

Please find attached a Submission from owners of 1-3 The Crescent, Manly (also known as 1 Commonwealth Parade, Manly), which is an adjoining property to 5 Commonwealth Parade, Manly, the subject of the Proposed Development Mod 2021/0733 - DA436/2008.

While we are broadly supportive of the development, we strongly request that the Council adds an additional condition of approval as detailed in the attached Submission to ensure that the structure and integrity of our property is protected during the extensive demolition and excavation works.

We thank the Council for their consideration of our Submission.

Yours faithfully

Noel Purcell, Boronia Foley, Alex Manu and Natalie Habib

## **SUBMISSION FROM OWNERS OF 1-3 THE CRESCENT, MANLY, 2095**

12 October 2021

### **NOTICE OF PROPOSED DEVELOPMENT**

**Modification No: Mod2021/0733**

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

**DESCRIPTION: Modification of Development Consent DA436/2008 granted for alterations and additions to a residential flat building**

#### **Introduction:**

While we remain broadly supportive of the development and the modifications contained in Mod2021/0733, we again express concerns that since the original Development Consent for DA211/2004, which has been re-numbered DA436/2008, there have now been 7 modifications of Development Consent sought, including this latest one.

This has made it very difficult to fully stay on top of the numerous and extensive modifications to the original plans and to fully assess the possible impacts of the development and related excavations on the structural integrity of our adjoining property.

#### **Excavation Impacts and Modified Basement Level**

Mod 2021/0733, amongst other changes, sets out altered plans for the basement level and hence required excavations depths.

The fact that these revisions have been made, confirms that the extensive excavation involved in the development poses potential structural impacts and risks for the adjoining properties.

The reality is that the excavation risks to the adjoining buildings essentially remain of major concern if not managed properly even with Mod 2021/0733, and we reject the claim that the 1m reduction in excavation depth adequately mitigates the concerns of neighbouring properties.

Under Mod 2021/0733, the excavations will still extend right up to and expose our boundary piling and basement structural walls and will extend to at least the depth of our footings if not slightly beyond. Also, the lift over run pit excavations will extend a further 1.5m below the base of our building footings. Additionally, the excavation will extend beyond the existing contiguous wall and piers of our building on the northern side of the boundary and will need to be supported by solid pile walls with shotcrete infill panels to prevent the collapse of the boundary wall and potential structural damage to our building.

The Geotechnical Investigation Report, conducted by JK Geotechnics, and submitted by the Development Applicants with Mod2020/0139, details the very material risks that the excavations pose for adjoining buildings. **Mod2021/0733 does not lessen these risks.**

Given that the extent of excavations will still likely extend at least to the base level of the footings of our building and boundary piercing, we again submit that the development must therefore fully comply with the *Environmental Planning and Assessment Regulation 2000 Act, REG 98E - Condition Relating to Shoring and Adequacy of Adjoining Property*, which states that:

*(1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work ... on adjoining land, the person having the benefit of the development consent must, at the person's own expense--*

*(a) protect and support the building, structure or work from possible damage from the excavation, and*

*(b) where necessary, underpin the building, structure or work to prevent any such damage.*

However, we note that Condition No.1A in the Notice of Determination dated 10/8/2020 requires that the development must be carried out in compliance with all recommendations and requirements contained within the Geotechnical Report, Ref 23373SD2rpt Rev 18/07/2020 by JK Geotechnics. If fully followed and monitored, this should deal with the needed specificity to comply with Reg 98E.

Beyond this protection, we also note that the above Geotechnical Report states that “*further geotechnical investigation of the site will be required to obtain a more accurate representation of the subsurface profile, particularly the sandstone bedrock quality, as the basis for the detailed design*”. The Geotechnical Report also states that this should involve “*additional geotechnical investigation including additional cored boreholes extending below the proposed bulk excavation levels*”.

This essential and required further geotechnical investigation work has not been undertaken to date, which raises serious questions as to whether the proposed design and excavation depths, as presented, are appropriate given the current lack of adequate information on the subsurface profile and bedrock quality according to the Geotechnical expert report.

We submit, therefore, that a specific Condition of Consent must be added by Council as follows:

***Prior to approval of the detailed structural design and the issuing of a Construction Certificate, all required further geotechnical investigations, as detailed in the Geotechnical Report, Ref 23373SD2rpt Rev 18/07/2020 by JK Geotechnics, must be undertaken and the findings and recommendations from those investigations be provided to Council and the adjoining property owners.***

Without this, the risk to the adjoining properties from the proposed excavations simply will be unacceptable and hidden.

### **Ensuring Privacy Protection**

Regarding overlooking windows and privacy, the adjoining living spaces between our buildings are relatively close at 0.6m for the main bedrooms on levels 1 and 2 of our building and approximately 4m otherwise.

We therefore remain very appreciative of the incorporation of Privacy Screens on the corners of the modified balconies and windows as these are essential in order to protect our privacy from overlooking windows.

### **Proposed 1m increase in Building Height.**

We raised no objection to the slight increase in the building height of 170mm under Mod 2020/0139, as we considered the impacts on light and shadowing to be very minor for our building.

While the proposed further 1m height increase proposed under Mod2021/0733 will have some further slight impacts on light and shadowing, we do not consider these to be major.

However, we do note that the new proposed height does breach the 11m height control and may impact other adjoining properties.

### **Traffic Management**

We appreciate the traffic calming measures implemented by Council at the corner of Commonwealth Parade and West Esplanade. It has helped slow the traffic and made it safer to cross Commonwealth Parade.

We do not raise any objection to the proposed parking and driveway exit arrangements, as these matters are best left to Council and traffic experts.

The addition of the visitor parking spot at the front of the building facing Commonwealth Parade, however, may add another safety dimension to the traffic and pedestrian flows. Car exiting the visitor parking may either have to cross a lane to travel south along Commonwealth Parade or cross over onto the wrong side in order to exit north onto Commonwealth Parade.

However, we note that proposed visitor parking space under the front of the building, but outside the locked basement parking area and turntable, may require further investigation as is likely to negatively impact traffic flow and safety on entry and exit, rather than improve traffic flows as claimed in the Report from Transport and Traffic Planning Associates. Its location will require a sharp turn to enter or exit onto Commonwealth Parade and require backing out onto busy Commonwealth Parade unless the turntable inside the locked basement parking can be used to turn visitor cars around.

A handwritten signature in black ink, appearing to be 'Dr Noel Purcell', written on a light blue background.

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