
Sent: 6/06/2019 5:20:50 PM
Subject: 107 Clontarf Street, Seaforth – Mod 2019/0244 – Submission by way of objection
Attachments: Letter to Council objecting to Mod 20190244.pdf;

Dear Sir

Please see attached letter.

Yours sincerely,

Darren Bick
Director
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Environment & Planning Law Specialists

Chief Executive Officer
Northern Beaches Council
1 Belgrave Street
MANLY NSW 2095

6 June 2019
Our Ref: DPB:18172093

By Email: council@northernbeaches.nsw.gov.au

Attention: Rebecca Unglund

Dear Sir

107 Clontarf Street, Seaforth – Mod 2019/0244 – Submission by way of objection

We act for Lin Lu and Frederick Woo, the owner-occupiers of 105 Clontarf Street, Seaforth.

The purpose of this letter is to object to Mod 2019/0244 which seeks to modify development consent DA 0359/2016 under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

As Council is aware, on 2 February 2019, our clients commenced Class 4 Judicial Review Proceedings in the Land and Environment Court challenging the validity of DA 0359/2016 (Proceedings No. 2019/48339).

Both Council and the owners of 107 Clontarf Street, Seaforth are parties to the proceedings.

The proceedings seek various orders for relief including:

- (a) a declaration that Council's decision to grant DA 0359/2016 was ultra vires or otherwise invalid;
- (b) an order setting aside the development consent; and
- (c) an order requiring the demolition of all buildings and structures purportedly erected under the development consent.

Council has filed a submitting appearance in the proceedings and the owners of 107 Clontarf Street, Seaforth have indicated to the Court that they do not wish to take an active role in the proceeding on the question of the validity of the development consent.

If, as our clients allege, Council's decision to grant the development consent was ultra vires or otherwise invalid, it is not legally open to Council to modify the development consent. Indeed, any decision to do so would also be invalid.

In circumstances where the validity of the development consent has been called into question in proceedings in the Land and Environment Court, it would be premature for Council to seek to determine Mod 2019/0244 at least until those proceedings are concluded.

We therefore request that Council confirm in writing that it will refrain from determining Mod 2019/0244 until the Land and Environment Court has disposed of the present proceedings and has determined whether DA 0359/2016 is invalid as alleged.

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Please do not hesitate to contact us should you require any further information.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'D Bick', written in a cursive style.

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