
Sent: 1/07/2018 6:52:37 PM
Subject: Objections to DA Mod2018/0294-DA0367/2010
Attachments: Mod2018-0294_DA0367-2010 submission by David Schmidt.pdf;

Dear Mr Perry

Thank you for the opportunity to make a submission regarding the modified DA Mod2018/0294. I own Unit 1 of the property on the western side of the subject DA. My submission is attached.

Thank you

David Schmidt
Owner Unit 1
42-44 Victoria Pde
Manly 2095

The Manager,
Development Assessment
Northern beaches council

Re: SP 10040. Mod2018/0294-DA0367/2010

Dear Sir/Madam,

I am the owner of Unit 1 42-44 Victoria Pde, the neighbouring property on the western side of the subject DA. Unit 1 is located at ground-level in the southeast corner of the building. I wish to make the following observations and comments in relation to the modified DA Mod2018/0294-DA0367/2010.

1. Basement Access Driveway Boundary Fence Height

Top of Wall (circled red in Figure 1) along western boundary of the basement ramp is at an elevation of RL 6.45m in the modified DA, compared with RL 7.45m in the APPROVED DA and as deemed in Condition 97 of the 2012 LEC Consent (See Figure 4 (bottom)). This will potentially allow car headlights to shine directly into the lower units of the adjoining property 42-44 Victoria Pde (Units 1 and 5 especially). It appears this situation will be exacerbated by the new profile of the basement access ramp, revised to provide a 150mm freeboard from the edge of Dungowan Lane, for flood risk mitigation (Figure 2). The sight rise upon entry to the property off Dungowan Lane will cause headlight beams to project higher, allowing even more light to shine into the adjoining property.

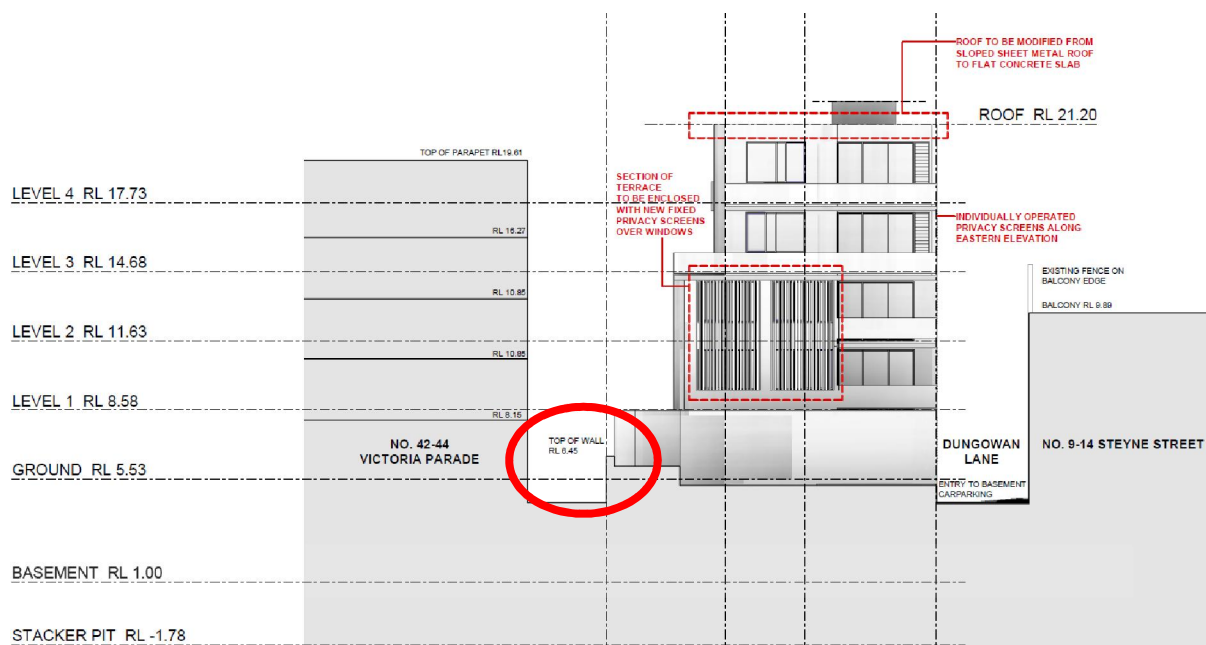


Figure 1: Drawing S96-202 SOUTH ELEVATION – Modified Application

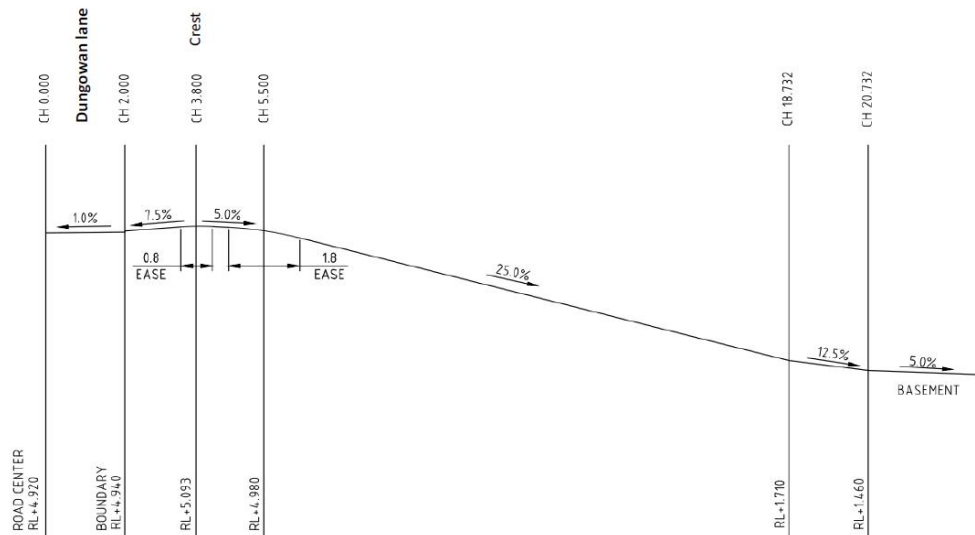


Figure 2: Access Driveway Longsection (Taken from FJA Consulting Engineers Technical Memo Re: Condition 19) – Modified Application

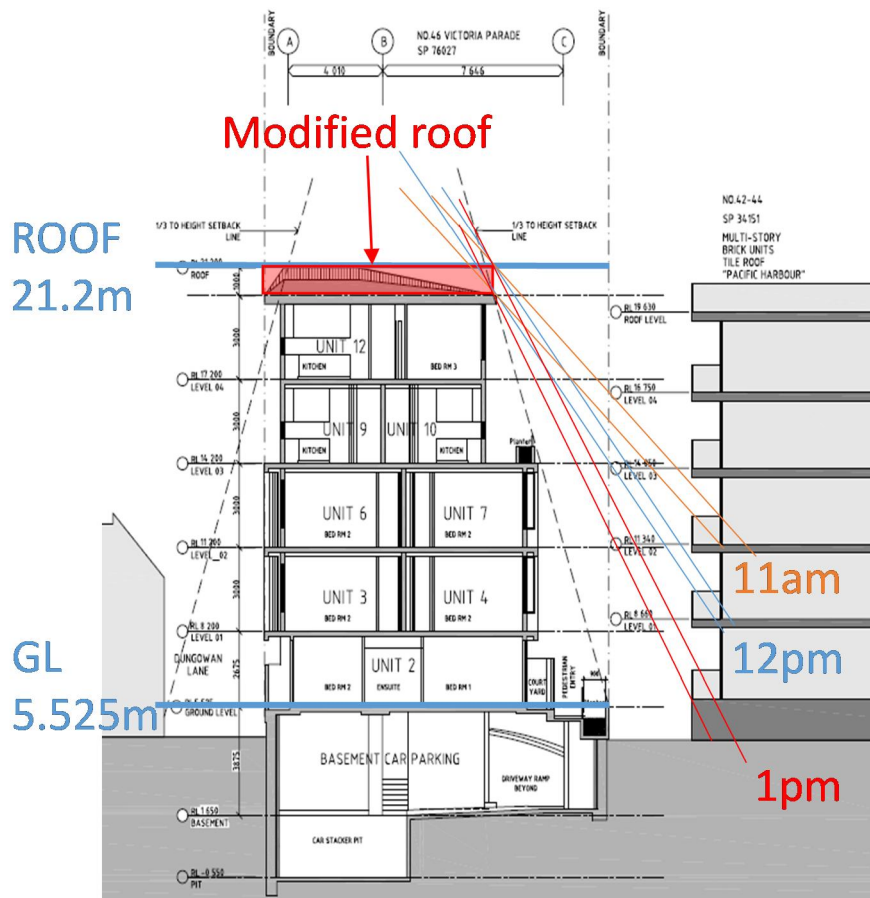


Figure 3: Drawing No. DA30B – Court APPROVED Section A showing modification to height of roof and shadow lines of both modified and existing approved rooves, at times of 11am, 12pm and 1pm

2. Roof Modifications to proposed development

The diagram above (Figure 3) shows Cross-Section A of the existing approved DA (looking South with 42-44 Victoria Pde on right hand side), and the proposed roof modification. At the western edge of the roof (right-hand side), the elevation changes from RL 20.2m to RL 21.2m, an increase of 1m, as a result of the proposed flat roof. This has the effect of elevating the shadow line cast by the roof on the adjoining property 42-44 Victoria Pde by 1m. The three pairs of orange, blue and red straight lines depict the shadow cast by the roof, at times of 11am, 12pm and 1pm respectively (calibrated against the shadow diagram). The lower line represents the existing approved DA, and the upper line the modified DA. The vertical distance between the lines of each pair is about 1m, which is estimated to take about 20 minutes for the shadow line to traverse. In other words, the extension of the roof as proposed will delay the arrival of sun to the units overshadowed by the proposed DA by about 20 minutes, which represents about a 15% reduction in duration of time the sun shines on these units, in mid-winter. This will affect Units 1 & 5 especially, and pathways along the eastern side of the building which may become damp and slippery because of reduced sunlight.

3. Balconies on south-side

The diagram below (Figure 4) depicts the Western elevation of the modified DA (top) and the existing approved DA (Bottom).

The 11m setback from the boundary of 14-47 Ashburner St is shown in the diagram. The south-facing “open” balconies in the existing approved DA were required to be of open construction pursuant to **2012 LEC Consent Condition 94, which constrains the use of privacy screens, for the purpose of reducing the impact on the amenity of the adjoining residential properties and reducing the visual bulk and scale of the building. Condition 100 requires that the western ends of the balconies be screened to a height of 1.6m with obscure glass, again to reduce impacts on the amenity of adjoining residential properties.** The primary concern here was to allow transmission of diffused and reflected light into the southeastern corner of the adjoining property 42-44 Victoria Pde. It is evident in the modified DA that the balconies on Floors 1 & 2 will be fully enclosed on the western ends with a concrete wall, and covered by fixed louvres on the southern sides (see Figures 1, 4 and 5). Instead of balconies, these areas become bedrooms (see Figure 5) with additional windows opening towards the opposing units in the adjoining property, reducing the privacy of that property and further degrading its amenity.

4. Apparent Discrepancies in Shadow Diagrams

The figure below (Figure 6) shows shadow diagrams taken from Council's website, dated as indicated in the figure caption. The time of the shadow model is 11am in mid-Winter. The shadow line of the DA APPROVED development is indicated by the blue outline of Figure 6(b), dated June 2014. It appears to be very similar to but not exactly the same as, the outline of the red area in the diagram above (Figure 6(a)), dated March 2014. The extent of the blue shadow outline was amended in Figure 6(b) presumably after March 2014 and before June 2014, to account for a "proposed roof profile", details of which are unknown to this author. This amendment is indicated by the red shaded area in Figure 6(b). Neither the amended area nor the blue outline of the DA approved development match in detail the green outline shown in Figure 6(c), which is claimed in the MODIFIED DA to be the existing APPROVED DA (and therefore should be the same as the blue outline). The biggest differences (those of concern) occur at the left hand side of the diagram, in the vicinity of Units 9, 5 and 1 on levels 2, 1 and Ground respectively.

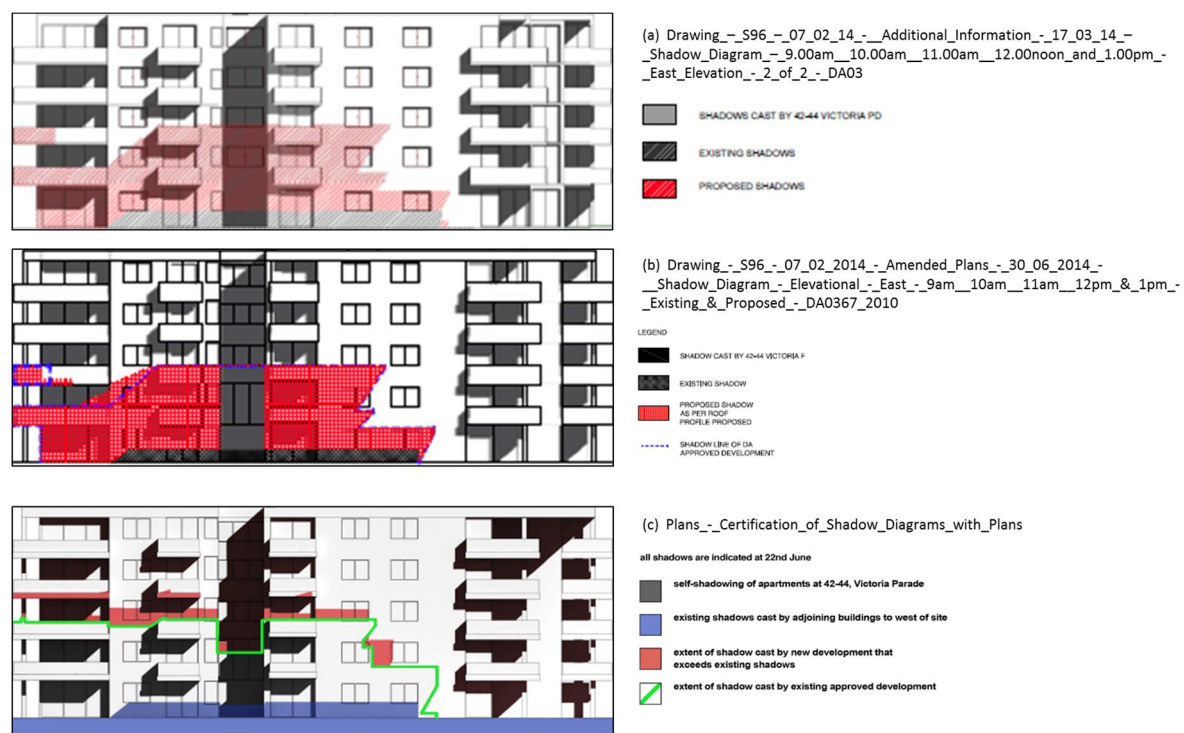


Figure 6: Shadow diagrams (a) dated 17 March 2014, (b) dated 30 June 2014, (c) dated 2018

The DA approved shadow line would be influenced by the "notch" in the western roof line (see Figure 7), and thus shows a dip downwards below the balcony of Unit 9 on Level 2. The straight profile of the green outline appears to have ignored this "notch".

A flat roof at 21.2m as proposed in the MODIFIED DA would project a shadow as indicated by the red area Figure 6(c). The figure seems to suggest that the modified roof would not add much to the DA APPROVED shadow line, but that may not be the case in the vicinity of Units 1, 5 & 9 especially, where the impact could be far greater than indicated, with Unit 5 & 9 balconies having no sunshine at 11am with the MODIFIED DA, whereas they do have sunshine with the APPROVED DA.

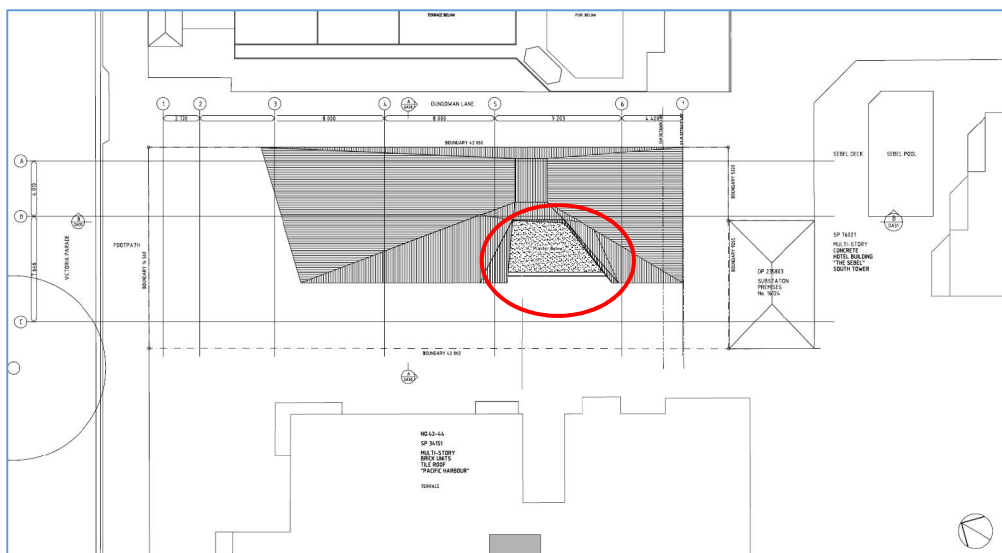


Figure 7: Drawing DA08B dated May 2012 – Plan – Level 5 Roof Plan showing “notch” on western side (red circle)

In Summary

I agree with the co-owners of 42-44 Victoria Pde, in objecting to the above modified development application (**Mod2018/0294-DA0367/2010**) for the following reasons:

1. There is no justification for the change in the design of the roof as approved by the LEC & MIAP on 21st August 2014. The owners had to spend considerable time, effort & money in order to receive a fair outcome to prevent overshadowing of our building.

The roof of the then DA was redesigned in order to provide sunlight to specific areas, reduce the effect of overshadowing and limit the potential for slippery pathways & fungus growth through lack of sunlight. This new modified DA reduces sunlight to the majority of buildings on the eastern side.

2. There is no justification for an increase in the height of the levels of each floor in the DA. SEPP 65 and the Apartment Design Guide (ADG) clearly identifies how to calculate the overall height of a new apartment block. The result of using the guide for 5 stories is a total height of 18.50 metres.

The DA requests 21.20 metres which is excessive, and the corresponding changes in floor height will have a severely negative impact on the views of all owners on the eastern side of our building.

3. The owners are entitled to the views they have paid for & enjoy. The increase in the levels of the balconies is totally unjustified & the use of full height concrete balustrading is an eye sore in addition to destroying much of each apartments view & sense of space.

The concept of “shared views” was promoted by council as being fair when the last approval was granted. There is now no consideration for shared views.

4. It appears that for the owners on the ground floor, the reduction in the height of the driveway boundary wall will result in car lights causing major distress. The heights of all fencing must be as per the 21st August 2014 approval.

In light of these objections, I respectfully **request that Council** enforces the consent conditions of 2011/2012 LEC hearings that are enshrined in the 2014 MIAP APPROVED DA, specifically; **1.** reset

driveway boundary fence to height of 7.45m to minimise head light glare on the adjoining property 42-44 Victoria Pde, pursuant to **Condition 97** of the 2012 LEC Consent **2.** Reduce roof height at its western edge to no higher than 20.2m and enforce the DA approved roof design, to reduce over-shadowing pursuant to **Condition 101** of the 2012 LEC Consent, **3.** maintain open construction of south-facing balconies of Floors 1 & 2 pursuant to 2012 LEC Consent **Condition 94**, and install obscure glass balustrades to a height of 1.6m on the western side of south-facing balconies at all levels, pursuant to **Condition 100** of the 2012 LEC Consent, and **4.** Ensure the shadow diagram has the correct existing DA APPROVED roof line, and revise as necessary and make results available to all interested parties.

Thank you

A handwritten signature in black ink that reads "David Schmidt". The signature is written in a cursive, flowing style.

David Schmidt
Owner Unit 1
42-44 Victoria Pde
Manly NSW 2095