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**Sent:** 12/05/2020 8:19:29 AM

**Subject:** Development Assessment - Mod 2020/0139 - DA436/2008

**Attachments:** Submission re Mod2020-0139 - Development at 5 Commonwealth Parade final.docx;

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 2020/0139 - DA436/2008.

While we are broadly supportive of the development, we strongly request that the Council adds additional conditions of approval to ensure that the structure and integrity of our property is protected during the extensive demolition and excavation works, which will extend right up to our side boundary and deeper than the foundations of our building, and also ensure our privacy amenity.

We thank the Council for their consideration of our submission.

Yours faithfully

Noel Purcell, Boronia Foley and Alex Manu

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

11 May 2020

**NOTICE OF PROPOSED DEVELOPMENT Modification No: Mod2020/0139 – DA436/2008**

**Subject Property: Lot 2 SP 11874 - 5 Commonwealth Parade, Manly**

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

### **Purpose of Submission:**

While we are broadly supportive of the development and the modifications contained in Mod2020/0139, we wish to ensure that the Conditions of Development Consent ensure that:

- our adjoining property is protected and supported to fully protect it from possible damage from the large amount of deep excavation involved that extends right up to our side boundary and deeper than the foundations of our building under these ‘final’ modified plans; and
- the loss of privacy to our adjoining property at 1-3 The Crescent, Manly (also commonly known as 1-3 Commonwealth Parade, Manly), which adjoins the Development is minimised.

### **Background and Reasons for Seeking Specific Additional Conditions of Consent:**

A search of Council Records reveals a number of Development Applications relating to this property over a very extended period of time, dating back to 2004.

In addition, since original Development Consent for DA211/2004 which has been re-numbered DA436/2008, there have been some 6 modifications of Development Consent sought, including this latest one.

Hence, it has been difficult for the owners of adjoining properties to fully stay on top of the numerous and extensive modifications to the original plans.

That said, following Platform Architects Pty Ltd taking over the Development Applications, we have appreciated the consultations that have occurred, albeit this is the first time we have seen the latest modifications and plans.

Hence, we have done our best to fully assess the possible impacts of the development and related excavations on the structural integrity of our adjoining property and on our privacy.

**Our key concern from this is that the current Conditions of Consent do not adequately set out specific requirements to protect and support the structural integrity of our building, given the documented risks involved with the deep and extensive excavations involved that extend right up to our side boundary and deeper than the foundations of our building.**

## Excavation Impacts and related Basement Plans

Mod 2020/0139 sets out altered plans for the basement level and hence required excavations and it clarifies related excavation depths.

These revisions acknowledges that the extensive excavation involved in the development poses potential structural impacts on the adjoining properties.

While Mod 2020/0139 claims that the removal of the car stacker proposal was driven by the desire to “*reduce excavation and construction impacts on neighbouring buildings*”, the reality is that the excavation risks to the adjoining building remains the same. The fact is, the excavations will still extend beyond the level of the base of the footings of our building and right up to por boundary walls and footings. (The Master Set of Plans confirms that the proposed basement floor level is at RL 10.650, which is below the basement floor level of our building of RL11.34.)

The very material risks the excavations pose for adjoining buildings are detailed in the Geotechnical Investigation Report, conducted by Consulting Geotechnical and Environmental Engineers, Jeffery and Katauskas Pty Ltd, and submitted by the Development Applicants with Mod2018/0575.

Given this, the development must therefore 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, Condition ANS21, which was added as part of the Determination of Mod 2018/0575, does not provide adequate specificity on what measures are required to protect the adjoining buildings from possible damage from the excavation to ensure compliance with Reg 98E.

The needed specificity, however, is provided in the recommendations contained in the Geotechnical Investigation Report, included with Mod2018/0575. As the Report was provided the Applicants (Platform Architects, and C. G. Koutsos and I. B. Koutsos) it is reasonable to assume that the Applicants would not object to the Report’s specific recommendations being included as Conditions of Consent.

The relevant recommendations set out in The Geotechnical Investigation Report, to be addressed during the construction so as to protect and support the adjoining buildings and structures from possible damage are:

- Dilapidation surveys of neighbouring buildings to the north and south need to be conducted – *Already covered by Condition AN15.*
- Test pits need to be excavated to expose boundary wall footings and founding materials, prior to bulk excavation commencing, and should be inspected by geotechnical and structural engineers to detail any underpinning that may be required prior to extending bulk excavations to the side boundaries.
- Vertical saw cut slot need to be provided along the perimeter of the proposed rock excavation, with the base of the slot always maintained at a lower level than the adjoining rock excavation.
- Quantitative vibration monitoring needs to be in place during rock excavation with Peak Particle Velocity (PPV) limited to no higher than 5mm/sec and 8mm/sec on the neighbouring buildings to the south and north respectively.
- Progressive geotechnical inspection of cut rock faces should be carried out at no more than 1.5m intervals by an experienced geotechnical engineer and appropriate stabilisation measures detailed.
- Temporary or permanent retaining walls that are required to support the soil profile need to be designed using the parameters detailed in the Geotechnical Investigation Report.
- Neighbours permission needs to be obtained for any anchors or rock bolts that extend beyond the site boundaries. Anchors or rock bolts need to be proof-tested to 1.3 times the working load under the direction of an engineer independent of the anchor or bolt contractor and reviewed by the geotechnical engineer.

**We submit, therefore, that the Council should add the following Conditions of Consent to provide the adjoining property owners with confidence that their properties will be protected and supported from possible damage from the excavation:**

**Additional Conditions of Consent:**

- 1. Prior to bulk excavation commencing, test pits are to be excavated to expose boundary wall footings and founding materials and inspected by geotechnical and structural engineers to determine any underpinning that may be required prior to bulk excavations being extended to the side boundaries of the adjoining properties.***
- 2. A vertical saw cut slot is to be provided along the perimeter of the proposed rock excavation, with the base of the slot always maintained at a lower level than the adjoining rock excavation.***
- 3. Quantitative vibration monitoring is to be put in place during rock excavation with Peak Particle Velocity (PPV) limited to no higher than 5mm/sec and 8mm/sec on the neighbouring buildings to the south and north respectively.***

- 4. Progressive geotechnical inspection of cut rock faces is to be carried out at no more than 1.5m intervals by an experienced geotechnical engineer and appropriate stabilisation measures are to be detailed and implemented.**
- 5. Temporary or permanent retaining walls that are required to support the soil profile are to be designed using the parameters detailed in the Geotechnical Investigation Report prepared by the Consulting Geotechnical and Environmental Engineers, Jeffery and Katauskas Pty Ltd as lodged with Mod2018/0575.**
- 6. The permission of neighbours is to be obtained for any anchors or rock bolts that extend beyond the site boundaries, with any anchors or rock bolts used in the development to be proof-tested to 1.3 times the working load under the direction of an engineer independent of the anchor or bolt contractor and reviewed by the geotechnical engineer.**
- 7. Adjoining owners to be regularly briefed by a qualified engineer on all protective measures relating to the excavations and compliance with the relevant Conditions of Consent.**

At a minimum, there needs to be an additional Condition of Consent, that states:

**All recommendations of the *Geotechnical Investigation Report prepared by the Consulting Geotechnical and Environmental Engineers, Jeffery and Katauskas Pty Ltd as lodged with Mod2018/0575* must be implemented, including adherence to the limits on vibrations progressive geotechnical inspection, with the adjoining property owners regularly briefed on all protective measures relating to the excavations and compliance with the Reports recommendations .**

### **Ensuring Privacy Protection**

The proposed modifications involve changes in the location and size of balcony areas and changes to windows. As a result, we have had to reassess the impacts on our privacy which are potentially different to that of the most recent approval.

We remain appreciative of the incorporation of Privacy Screens on the corners of the modified balconies, and have no concerns relating to the balcony changes.

Regarding windows, the adjoining living spaces between our buildings are relatively close (approx. 4m) and without adequate Privacy Blades on overlooking windows, there remains opportunities for direct overlooking into bathrooms and living areas in our property.

We note, however, that the windows on the north and south elevations in the Master Set of Plans all have the annotation 'BL' on them, but no explanation of this abbreviation is in the Plans. Based on the annotations in prior Plan sets, we 'BL' to mean 'Metal Privacy Blades'.

The positioning of kitchen window W03 on Level 1 (see Plan A1.02) directly overlooks the ensuite bathroom and dressing room windows on the south side ground floor of our property

and it looks out on bedroom windows on the south side Level 1. Hence the inclusion of privacy blades is essential.

Similarly, windows W01, W02 and W03 on Level 2 (see Plan A1.03) look out on the main bedroom window and the south side balconies on Level 2 of our building. The including of privacy blades would ensure adequate privacy.

To take away any uncertainty relating to privacy blades in the Master Set of Plans, and to ensure that privacy blades are installed on all overlooking windows irrespective of any further changes to the proposed windows, we submit that the following Condition of Consent be added, consistent with the objectives of Manly Development Control Plan, Clause 3.4.2:

**New Condition:**

***Privacy blades to be attached and angled to minimise the direct overlooking of living areas in the adjoining properties are to be attached externally to all windows on both the north and south elevations of the Development.***

**Proposed 170mm increase in Building Height.**

We have no objection to the proposed increase in height and consider the impacts on light and shadowing to be very minor. We also note that the new height is consistent with the height of the existing building.

A handwritten signature in black ink, appearing to read 'Noel Purcell', is written over a faint, circular official stamp.

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