
Sent: 28/02/2019 9:49:31 PM
Subject: Re MODIFICATION APPLICATION: MOD 2019/0029 DA367/2010 - Objection from strata plan 34151
Attachments: Schedule to Extension Request 28 Feb 19.doc;

Attention: Development Assessment
MODIFICATION APPLICATION: MOD 2019/0029 DA367/2010
46 Victoria Parade Manly 2095 NSW

OBJECTIONS FOR THE ABOVE MODIFICATION

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ON BEHALF OF STRATA PLAN 34151: WE ARE PROVIDING A SCHEDULE OF RESIDENTS OBJECTIONS THAT IA A SUPPLEMENTARY TO LETTER TO THAT FROM TREASURER, GEOFF KAYE DATED 28 FEBRUARY 2019 REQUESTING AN EXTENSION OF TIME FOR APPLICATIONS.

Yours sincerely,

Graham Butson
Member Executive Committee Strata Plan 34151
42-44 Victoria Parade Manly.

The General Manager
Northern Beaches Council
PO Box 82, Manly, NSW, 2095
council@northernbeaches.nsw.gov.au

28 February 2019

Attention: Development Assessment
Planner: Renee Ezzy

MODIFICATION APPLICATION: MOD 2019/0029 DA367/2010
46 VICTORIA PARADE, MANLY

Dear Council Assessment Panel and Ms Ezzy,

OBJECTIONS FOR THE ABOVE MODIFICATION

ON BEHALF OF STRATA PLAN 34151:

SUPPLEMENTARY TO LETTER FROM TREASURER, GEOFF KAYE

We will supply a separate objection regarding the loss of sunlight and the discrepancies with the shadow drawings.

However **as requested by the Executive Committee of the Owners Corporation of Strata Plan 34151** for the residential apartment building at 42-44 Victoria Parade, Manly, we hereby supply information to support the request of extension.

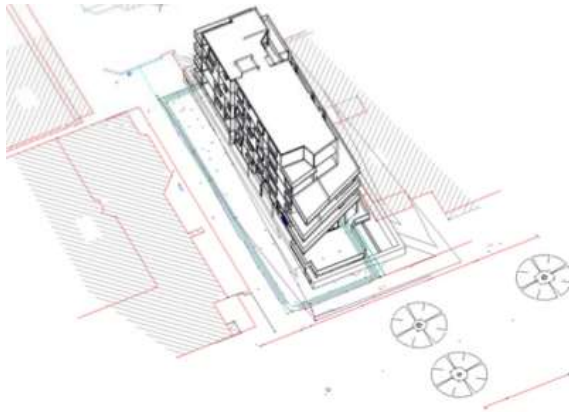
SCHEDULE OF RESIDENTS OBJECTIONS

i) IMPLICATIONS OF CHANGE TO ROOF PROFILE APPROVED BY LEC AND MIAP

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

The roof plan, S96:200 of the 2014 DA was redesigned again on 28 May, Issue C, in order to provide sunlight to specific areas, reduce the effect of overshadowing and limit the potential of slippery pathways and fungus growth through lack of sunlight. This new DA still reduces sunlight to the Ground, and Level 1 of our building.

Please refer our separate objection for 'Sun into our Living Spaces'.



View plane - aligned balconies

The ARC Drawing for the roof does not match this screenshot taken from the SEPP65 Statement. There seems to be inconsistency with the screenshot showing the 'cutout' towards the rear of the building and with angles, and the 'cutout' shown in the ARC Roof Plan Issue E for this modification showing straight lines.

There is considerably less "cutout" in the Arc Drawing than that shown in the MIAP approved 2014 roof "angled roof cutout" and the open balcony on Level 4 (Drawings 201 and 200 Issue C dated 28 May 2014) submitted by Design Cubicle.

ii) IMPLICATIONS OF THE PROPOSED INCREASE IN THE APPROVED FLOOR LEVELS

There is no justification for an increase in the height of the levels of each floor in the DA. The SEPP65 and ADG clearly identify 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.

A height of 2.95m was approved and the developer is now asking for 3.05m. Our floor to ceiling height is approximately 2.4m. The ADG recommends 2.7 metres. Therefore we believe their request is totally unjustified.

The DA requests 20.95 metres which is excessive and will have a severely negative impact on the views of all owners on the eastern side of our building as well as neighbours in the Sebel.



Figure 3: Historical Google Street View image from Nov 2009

To the south west of the Site is 42-44 Victoria Parade (see Figure 1 and 2) which is a five-storey residential flat building, containing 20 units (see Figure 4). 42-44 Victoria Parade has 10 units which face the Site (to the east) each with one large corner balcony and one smaller bedroom balcony along with large windows facing the Site.

NOTE: The new proposed building has a higher starting point of RL5.53. The proposed ground floor will be greatly higher than the original grass level at ground floor as shown above. Thus a 5 storey building with extra increased floor heights and roof heights will completely overshadow our balconies and building as a whole.



This screenshot has been taken from the SEPP65 Statement. The photo is taken on an angle to visually suggest that the PROPOSED BUILDING IS LOWER than the top of the OPEN PARAPET HEIGHT of 42-44 Victoria Parade.

This seems an impossibility as the Top of the railing to the OPEN PARAPET of our building measurement is said to be RL 19.61.

It also does not represent the new 600m move towards the east.

As per the Drawings provided by ARC:

The PROPOSED Floor Height of Level 4 is RL17.73.

The Roof RL20.43 shown on drawing 2424-A200E is actually the CEILING Height of Level 4, equalling 2.7m from floor to ceiling.

Therefore the ROOF RL20.95 (an extra 0.5 metre) will have to include the LIGHTING AND AIRCONDITIONING FACILITIES FOR Level 4 as well as CONCRETE ROOF SLAB.

ROOF RL20.95 is 1.3 metres higher than the open Railing to Parapet on the top of the roof of 42-46 Victoria Parade.

It is noted from the drawings Section A 2424-A300 that each floor has a ceiling height of 2.7 metres **with an extra 0.35 metres being added between each floor ceiling height** – (for the lighting and air conditioning as well as the Concrete Slab for each floor.)

Therefore the height of each level measures 3.05 metres from floor to floor.

This proposed 3.05 metres for each level is greater than the MIAP 2014 APPROVED DRAWINGS which showed a measurement of maximum 2.935 METRES.

These changes are further illustrated in the table below:

	Approved 2014	Proposed 2019	Difference 2014 to 2019	Comments
Ground F loor	5.525	5.53	+0.005	View affected
Level 1 Floor	8.460	8.58	+0.120	View affected
Level 2 Floor	11.395	11.63	+0.235	View affected
Level 3 Floor	14.330	14.68	+0.350	View affected
Level 4 Floor	17.265	17.73	+0.465	View & sun affected
Level 4 Ceiling	19.965	20.43	+0.465	Does not include air con and lights for Level 4 apartment. Increase will affect sun access Units 1 and 5
Base Pitched Roof at West elevation	19.965	20.50	+0.535	Increase will affect sun access Units 1 and 5
Roof Height	21.20	20.98	-0.22	The distance between Level 4 ceiling 20.43 and the roof of 20.98 is +0.55. This has to include the roof slab as well as the air con and lighting for Level 4.

Therefore even though the roof height has been slightly reduced, the Floor Heights have gradually increased above those approved by MIAP in 2014. These new levels in turn increase the underneath height of the pitched roof as well by +0.535. These increases will surely affect the view corridor for neighbours in the front and the solar access to adjoining neighbours in the rear of 42-44 Victoria Parade.



Screenshot: "Neighbouring site line to beach matches building setback line."
From SEPP 65 Statement.

This screen shot shows RL levels for the top of our Balcony, not the floor.

None of these measurements to our balustrade match up with any measurements given on the drawings. Namely the top of our balcony balustrade on Level 4 is quoted as 16.73 L4.

The proposed drawings show an increase in height to the Floor Level at Level 4 to be RL17.73. The top of our balcony railing on Level 4 is shown as RL16.73.

Therefore according to this screenshot, the proposed floor level of Level 4 starts at 1 metre higher than the top of our balcony balustrade railing.

The proposed new floor levels EXCEED the ADG guidelines and DO NOT MATCH approximately those of our neighbouring apartment building (42-44 Victoria Parade) as claimed by the developer.

View loss will be generated from the new floor levels, which are being raised as well as solar access to adjoining residents.

iii) CONSEQUENCE INCREASE IN LEVELS OF BALCONIES AND USE OF FULL HEIGHT CONCRETE BALUSTRADING

The consequence of the increase in floor heights as well as full height concrete balustrading on the north/west corner is that view from the front units in 42 Victoria Parade will be greatly diminished. You cannot look through concrete.

The increase in the levels of the balconies is totally unjustified and the use of full height concrete balustrading is an eye sore in addition to destroying much of each apartments view and sense of space.

It was always LEC and MIAPS ruling and intention that all balustrades by glass.

CONDITION 94:

Privacy screens separating terraces of Units 3 and 4 Level 1, terraces of Units 5 and 6 at Level 2 and terraces of Units 9 and 10 at Level 3 are to be a

maximum 1.0 metre high for the first 1.0 metre from the front edge of the balconies, plans are to be suitable amended/detailed prior to the issue of the Construction Certificate.

Reason: To reduce impacts on the amenity of adjoining residential properties and reduce the visual bulk and scale of the building.

CONDITION 99:

The northern balcony obscure glass divider on level 3 if supported by framing shall be no more than 75 mm in overall plan with.

Reason: To reduce impacts on the amenity of adjoining residential properties.

iv) NO JUSTIFICATION FOR ENCLOSURE OF REAR BALCONIES ON LEVEL 1 AND 2

The developer proposes to enclose the rear balconies on Level 1 and 2 to provide extra floorspace for the bedroom and living room on these levels.

There is absolutely no justification for the enclosure of the rear balconies on Level 1 and 2.

It was never the intention of the LEC that the balconies be enclosed.

The balconies were to create open space for the building and reduce the affect on amenity of neighbours.

v) CONDITIONS 1 AND 100 IMPOSED BY LEC IN 2011 AND FURTHER APPROVED BY THE LEC AND MIAP IN 2014 SHOULD BE RETAINED

We were at the LEC Meeting December 2011 when the Condition 1 was suggested.

We were called into the meeting room with Council' Solicitor as well as Planner, David Stray, and it was explained that a concession had been reached with regard the rear setback. –

Namely CONDITION 1:

The rear wall (southern elevation) of the proposed building is to be setback a minimum 11.0 metres from the rear (northern) boundary of the property known as 27 Ashburner Street Manly being SP76027. The rear balconies are to be setback a minimum 9.5 metres from the rear (northern) boundary the property known as 47 Ashburner Street, Manly SP76027. Plans are to be suitably amended prior to issue of the Construction Certificate.

Reason: To achieve closer compliance with Council's Development Control Plan for the Residential Zone Amendment 1 and reduce impacts on the amenity of adjoining properties.

It should be noted that there have been three developers over the period of this DA. **Not one of these developers has ever purchased or owned the land or property of the Heritage Listed Sub Station.**

This Substation land was used in the calculation of the 11 metre minimum setback.

Therefore in reality, the setback of the proposed building balconies from the north wall of the substation is only 2.75 metres.

This 2.75 metres in no way meets the Manly DCP requirement of a 8 metre rear setback.

CONDITION 100:

The obscure glass screen to west end of the rear balconies shall each be 1.6 metres high above each finished balcony floor level.

Reason: To reduce impacts on the amenity of adjoining residential properties.

VI) THE ADDITION OF FIXED LOUVRES AT THE REAR OF THE SITE FACING THE SOUTHERN BOUNDARY

Fixed louvres across the enclosed balconies on Level 1 and 2 will impact greatly on adjoining neighbours by giving the impression of 'prison' bars.

The rear setback has already been greatly reduced. Further extension and intrusion of fixed louvres will impact and reduce the amenity of adjoining neighbours.

It was the stated by the Commissioner of LEC of 2011 that the intention of these balconies was to create open space and all balconies be glass only. (See Condition 100)

vii) THE VERACITY OF THE SEPP65 STATEMENT WHICH SAYS that " ... all of the units are owner occupied"

According to the Manly 'grapevine' - there are eight owners, one of whom owns 4 units. Also the owner of the top floor has since purchased in the Eastern suburbs. We question the Veracity of the SEPP65 Statement.

viii) DRAWINGS WHICH ACCOMPANY MOD 2019/0029:

The drawings supplied highlight in red only 2 changes, that is the proposed change to the roof profile as well as relocating the top 2 floors of the proposed development approximately 600mm to the east.

We note in (ix) below that there are many more changes proposed by Mod 2019/0029 that have not been highlighted.

We note in Drawing 2424-A111 E Roof Plan that the “cutout” for solar access is a completely different shape to that in the 2014 APPROVED Drawing S96:200 Issue C by Design Cubicle. Design Cubicle spent considerable time and effort at the request of MIAP to create this “cutout” to allow solar access for Units 1 and 5/42 Victoria Parade – adjoining residents.

We note in Drawing 2524-A203 E West Elevation that on Level 4, the floor height has increased as well as the shape of the ‘approved cutout balcony’ has been changed to a much “smaller and shorter cutout.” This again goes against the LEC and MIAP Conditions and will affect the solar access to adjoining residents. This balcony appears to be enclosed, whereas the condition of the LEC/MIAP was that it remain an open balcony for service purposes only with a GLASS BLUSTRADE.

Condition 119: (added by MIAP 2014)

The solid balustrade on western elevation of level four at RL17.265 which is related to the lobby area of Units 12 and 13 is to be replaced with a clear glass balustrade so as to remove the proposed planter.

Reason: To protect the amenity of neighbours.

ix) EXTERNAL DRAWINGS – PLANS WHICH ACCOMPANY MOD 2019/0029 INCORPORATE MODIFICATIONS FROM PROPOSED MOD2018/00294 WHICH WAS REFUSED

In a review of the plans, we note that in this Modification 2019/0029 the developer has not highlighted the changes shown in the previous 2018 modification.

The 2018 Modification was REFUSED by the NORTHERN BEACHES LOCAL PLANNING PANEL in December.

Shortly after that Refusal in December 2018, we were advised by Council’s Planner, Luke Perry, that the Developer had to build as per the Approved plans of the MIAP ruling of August 2014.

Refused 2018 Modification Changes not Highlighted:

1. Change of floor heights.
2. Enclosure of rear balconies for extra bedroom and living space on Levels 1 & 2.
3. Addition of louvres across these spaces Levels 1 & 2.

4. Addition of windows, changed window heights and addition of louvres along west and east elevation. Some new windows are being placed opposite habitable bedrooms and living spaces along the western elevation.

5. Several Changes in Basement (not a big problem for our building except for fire stairs to Victoria Parade and not illustrated as to how they will exit at Ground Level).

6. Two New Fire Walls required for front and rear as per the Fire Safety report are not illustrated.

x) INFORMATION NOT SOWN ON THE MOD 2019/0029 MODIFICATION

Our research also shows:

Finishes:

At the end of the drawings - "Plans-External" 2019 is a list of finishes. - These do not match the approved of 2012 and 2014. We note there is a concrete planter box along the west elevation at Level 3 to be finished in polished concrete. This was not approved.

CONDITION 95:

The external surfaces of the building I to be finished in accordance with the external materials and finishes board No 1109 50B dated 3 September 2012.

Reason: To maintain the visual amenity and maintain the character of the immediate locality.

We note the walls have been changed to WHITE. This change to white suits the rear apartments of 42 Victoria Parade because we may receive some reflected light. Our sunlight is already being greatly diminished so we need all the reflected light we can get.

Ground Level

No drawing has been provided to illustrate the following:

- a) how the stairs for the basement are to be accessed from the Ground. These stairs are located in the basement north-west corner at the boundary and presumably are used for fire safety.
- b) where the two fire safety 'egress' walls are to be placed as requested in the Fire Safety Report of 2018 and not addressed in the 2018 or 2019 modifications.
- c) the location of the "visitors bike rack" near the lobby – as mentioned in the SEPP65 Statement. This is NEW and presumably it will be placed opposite our building lobby further reducing the amenity of our residents. The two building lobbies will be adjacent to each other.

xi) In the Report SEPP65 Design Verification Statement 2019 we have taken issue with the following:

Principle 2: Build Form and Scale - (Scale and bulk of building is non-compliant. Reduced setbacks. Excessive height of building);

- (a) The scale and bulk grossly exceeds the appropriate buildform for the site.
- (b) The bulk and scale completely dominates the Heritage Listed Cafes on the corner of Victoria Parade and South Steyne.
- (c) There will be no setback on Dungowan Lane (East Elevation).
- (d) The top two floors have been moved 600mm east to align with the Lane.
- (e) The proposal exceeds the height limit of the LEP

SCREENSHOTS:

Note the screen shot from the proposed External Drawings illustrating the white colour finishes is taken on an angle to appear the same height as our building. The proposed roof is greatly higher than the ceiling of our Level 4 and the top of our open roof parapet railing above the Level 4 ceiling for 42-44 Victoria Parade. The floor levels have been increased from 2.95m to 3.7m. Our Floor to ceiling heights are approximately 2.4m.



The above screenshot also shows the different finishes for colour schedule.



The screen shot from the SEPP65 Statement illustrates the RL levels again showing the RL height at the top of the Balcony Railing for each Level in 42 Victoria Parade. It should be noted that the RL Level for the Floor of the proposed Level 4 in 46 Victoria Parade is RL17.73.

This is 1 metre higher than the Level 4 balcony railing in 42 Victoria Parade

Principle 3: Density - (the proposal is non-compliant)

- (a) The floor space ratios exceed the LEP – approximately 2.5 times previously.
- (b) The Building far exceeds the original footprint of the 3 storey building of 6 flats.
- (c) The West, East and South elevations are non-compliant with the separation distances outlined in the ADG and DCP setback provisions.
- (d) The building floor heights of 3.05 metres greatly exceed the ADG recommendations of 2.7 metres.
- (e) The report states "the new floor levels have been adjusted to comply with the ADG and match approximately those of the neighbouring apartment building". This is incorrect. In no way do they match the neighbouring apartment building, i.e. 42-44 Victoria Parade. Each proposed Level is higher.
- (f) The report states the units are all owner occupied. We understand from talk about Manly that there are 8 owners, one of whom owns 4 units, two of which he wants to extend into the rear setback by enclosing the LEC "Condition 1" concessional Balconies. It is questionable if the top floor will be owner occupied.

Principle 5: Landscape

- (a) The approved landscaping has been greatly reduced to front and side only to the Lobby area.

(b) There is no provision for deep soil landscape as the building support foundations have been built AT GROUND LEVEL to the perimeter of all 4 boundary lines.

(c) The approved DA had landscaping in the rear South/West corner and along the driveway between the substation.

(d) We would also point out that in order for the developers to build their foundation walls, they have removed all our garden all along our adjoining boundary. This garden included many camelia trees outside Unit 4 and our lobby, and orange blossom trees outside Unit 1 along our adjoining boundary. This was a flourishing garden and is now reduced to sand and rubble with no surviving vegetation. They used the excuse that removal was necessary for their foundations and did not have written permission from neighbours.

Many of the Louvres, giving ventilation into our garages, along this boundary have been severely damaged.

It was promised that this garden would be reinstated before completion of the building. We would request Council to uphold this 'promise' to reinstate the garden and fix the damaged louvres.

Principle 6: Amenity

(a) There is reduced setback on the west elevation.

(b) The increased height of the building reduces the separation distances between the proposed building and adjoining neighbours in 42-44 Victoria Parade.

(c) The proposal does not meet the distances described in the ADG.

(d) Some Rear apartments in 42-44 Victoria Parade facing east will have their solar access reduced less than two hours. This is below the Land and Environment Guidelines.

WE REQUEST COUNCIL TO:

a) HONOUR THE CONDITIONS 1 AND 100 SET BY THE LEC IN 2011 AND FURTHER APPROVED BY LEC IN 2012 AND MIAP IN 2014. On the grounds that this was given as a concession due to the oversize, bulk and scale of the building, including the overshadowing to neighbours.

b) REFUSE THE INAPPROPRIATE ENCLOSURE OF THE REAR BALCONIES FOR LEVEL 1 AND 2. On the grounds that it was never the intention of the LEC that the balconies be enclosed. The balconies were to create open space for the building and reduce the affect on amenity of neighbours.

c) REFUSE THE ADDITION OF FIXED LOUVRES ON THE SOUTHERN BOUNDARY. On the grounds that these will intrude further into the setback and affect the amenity of adjoining neighbours. Additional louvres will give a “prison” visual for the adjoining neighbours.

There is no justification for this developer to enclose the balconies for extra space for the bedroom and living rooms on Levels 1 and 2:

1) In fact it REDUCES the “OPEN SPACE” FOR THE BUILDING as well as increasing the bulk and scale.

2) The enclosure and additional louvres also impacts and reduces the afternoon reflective light for the three lower rear apartments (1, 5 and 9) of the adjoining residents in 42-44 Victoria Parade. It creates a “prison’ like view from their living spaces. These apartments are already being greatly affected by reduced solar access from the morning sun because of the height of the building.

d) MAINTAIN THE CEILING HEIGHTS APPROVED IN THE 2014 MIAP APPROVAL. The increase impacts all owners of units in 42-44 Victoria Parade. The increase of floor levels as well as concrete balustrades greatly impacts the shared view of residents in the front of 42 Victoria Parade. There is no justification for this increase from 2.94 to 3.05m.

In Conclusion:

The modifications are all unjustified and reduce the amenity of adjoining neighbours.

We request Council to refuse all the increases in the 2018 and 2019 drawings and uphold the rulings and Conditions agreed by MIAP in 2014 so that there is no further increase in the bulk, scale and overshadowing to adjoining neighbours.

Yours sincerely

Graham Butson
EXECUTIVE COMMITTEE MEMBER STRATA PLAN 34151
42-44 VICTORIA PARADE MANLY