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13 October 2021

The Chief Executive Officer
Northern Beaches Council
Civic Centre
DEE WHY NSW 2099

By Email - Northern Beaches Council

RE: Development Application Mod2021/0733 – 5 Commonwealth Parade Manly. Proposed s4.55 modifications to current consent DA436/2008 including an increase in height above the MLEP height plane over a relatively small area. The s4.55 Modifications primarily comprise a reduced basement level and excavation in response to concerns of neighbours to minimise risk, and improvements to pedestrian and road safety and Front elevation.

1.0. Issues and Overview

1.1. We write on behalf of our client and applicant for the above s4.55 Application to modify the current consent on property No. 5 Commonwealth Parade Manly to respond to a council staff response recently placed on the Council DA Tracker web site. The report to which we refer is dated 6 October, unsigned and no name stated and headed "Urban Design Response".

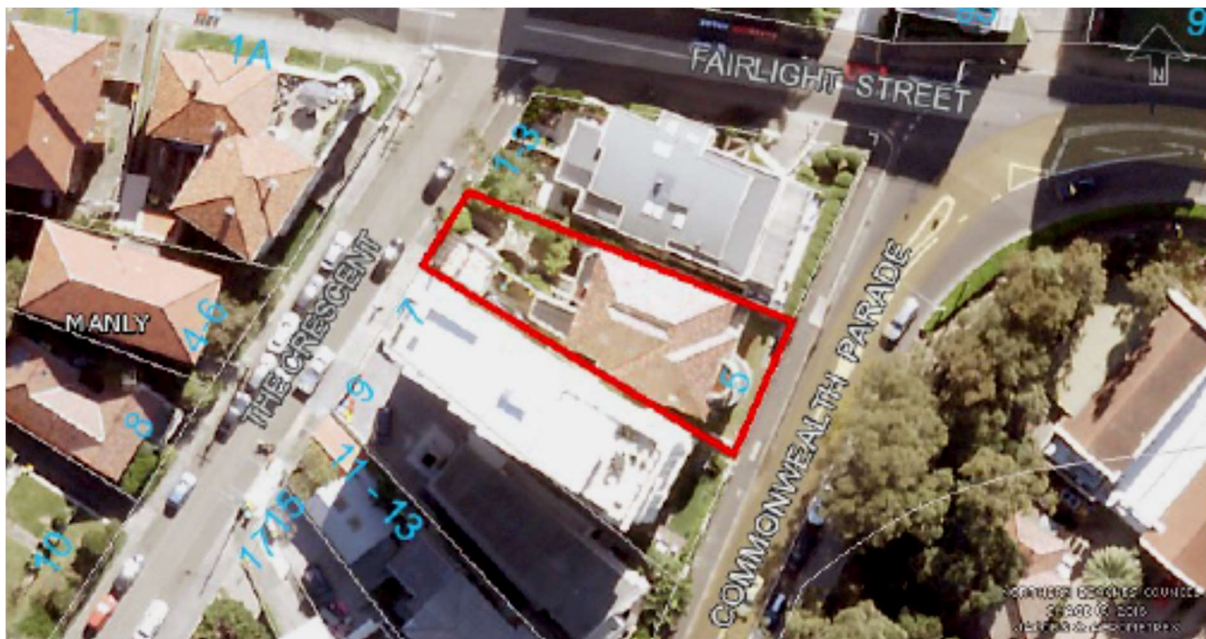
The council officer has outlined non-compliances and concluded that the proposal cannot be supported. From the comments made it seems to our client that the council officer has not properly analysed the application, the reasons for the modifications, or the justifications and compliance with the related planning objectives put forward in our Statement of Environmental Effects and the Clause 4.6 Application dated 13 September 2021.

1.2. We and our client strongly disagree with the officers' stated concerns and conclusions which address in the following Table and information that follows.

Council Officer's reason	Response
1. The proposed overall height of the building will breach the 11m height control by up to 1090mm.	<p>1. The statement is correct; however, the officer has not responded to the small area of the breach, or that most of the development sits below the height plane, or the reasons leading to this increase in height, nor the assessment of impact, nor the justifications submitted, nor the assessment against the MLEP height control objectives, view impact assessment or shadow impact assessment.</p> <p>2. The breach of the height relates to a small portion of the reduced top floor which exceeds the 11 metre height control varying from nil to 1.090 metres at the southern end of the upper roof eaves over a small area.</p> <p>3. As demonstrated by the project architect's drawings of the height plane and view analysis drawings and our own photos and assessment, the impacts are minimal to nil and are outweighed by the overall benefits including risk minimisation and pedestrian and vehicle safety.</p> <p>3. The variable increase in height above the 11 metre height control has no direct impact on views and a minimal impact on increased shadows above the existing consent. A comparison of the impacts of the current consent and the proposed impact of the modifications clearly demonstrates this. Please refer to the Statement of Environmental Effects and the Clause 4.6 Application submitted with the development application.</p>
2. There will be an increase in FSR of 1.18% above the current consent which has already exceeded the control. Approved DA 1.36:1 - Proposed MOD 1.37:1	<p>1. The officer has apparently not considered the reasons leading to the increase in FSR including the concerns of neighbouring building owners and the significant overall benefits resulting from raising the basement level, the elimination of the basement access ramp and the provision of improved safe pedestrian access.</p>

	<p>2. The deletion of the ramp left a visual void on the front elevation which has now been architecturally addressed to present a harmonious streetfront presentation to Commonwealth Parade. It is this architectural change that primarily leads to the small increase in FSR.</p> <p>3. To delete the basement driveway ramp and retain the void above the former ramp makes absolutely no sense and result in a fractured front elevation. The increase in FSR of 1.18% above the current consent is justified on that basis alone.</p>
3. The increase in height of the built form will cast additional shadow to the residential unit development to the south.	<p>1. The breach of the height control relates to a small portion of the reduced top floor which exceeds the 11 metre height control varying from NIL to 1.090 metres (9.9%) at the southern end of the upper roof eaves. The impacts are minimal to nil and are outweighed by the overall benefits including risk minimisation and pedestrian and vehicle safety - as demonstrated by the project architect's shadow analysis drawings and view analysis drawings and our own photos and assessment.</p> <p>2. The variable increase has no direct impact on views and a minimal impact on increased shadows above the existing consent. A comparison of the impacts of the current consent and the proposed impact of the modifications clearly demonstrates this. Please refer to the Statement of Environmental Effects and the Clause 4.6 Application submitted with the development application.</p>
4. The additional building height will block view corridors from the adjacent residential developments.	<p>1. We disagree – the proposed breach does not block view corridors as most of the potential views are obstructed by the existing development at No. 7 Commonwealth Parade and the dense tree growth on the opposite side of Commonwealth Parade.</p> <p>2. The height breach relates to a relatively small portion of the reduced top floor which exceeds the 11 metre height control varying from NIL to 1.090 metres at the southern end of the upper roof eaves. As demonstrated by the project architect's drawings, shadow analysis drawings and view analysis drawings and our own photos and assessment, the impacts are minimal to nil and are outweighed by the overall benefits including risk minimisation and pedestrian and vehicle safety.</p> <p>3. The proposal achieves the planning objectives and results in an improved outcome and minimises potential risks to adjoining buildings.</p>

2.0. The Site and Impacts of Existing Buildings.



Above – Fig.2.0-1 – Aerial view of locality and subject site. The building footprints of adjoining properties No. 3 and No. 7 Commonwealth Parade and others is clearly visible. Also, the shadow impact of No. 7 Commonwealth Parade (Heritage listed) due to the height of that building is also clearly visible.

3.0. Proposed Modifications, Comparison, and Impact Summary

3.1. Front Elevation to Commonwealth Parade - Streetscape



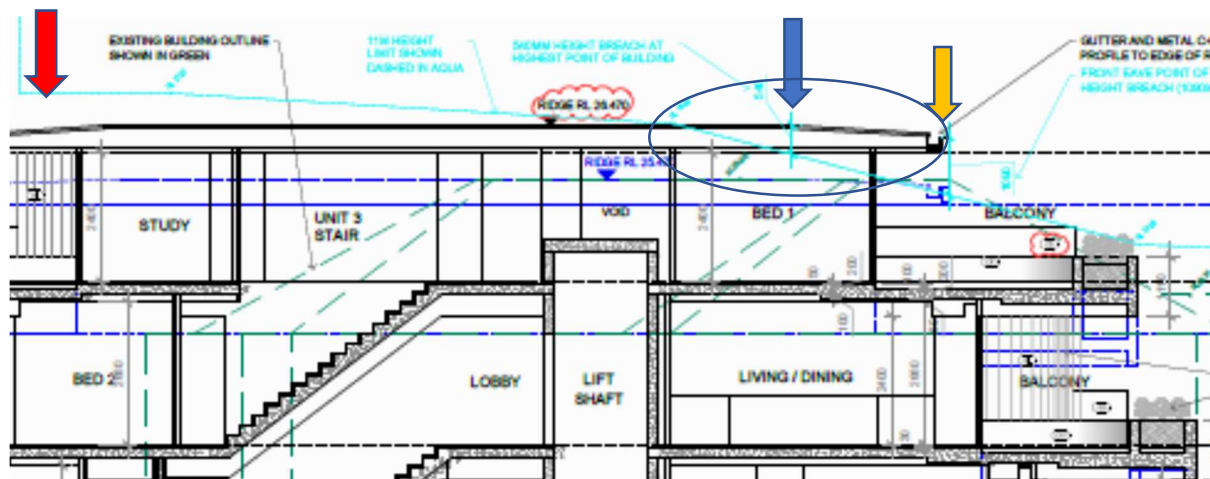
Above – Photo 1 – Current Consent Commonwealth Pde. Photo 2 – Proposed s4.55 (with approved shown in red dots)

COMMENT: The deletion of the basement access entry and ramp results in reduction in risks, improved vehicle safety and improved pedestrian access.

3.2. MLEP 11 metre Height Control Plane and Breach.

1. A review of surveyed ground levels (RLs) and the proposed modifications show that:

1. Most of the development sits below the 11m height plane – the blue cloud below indicates the small breach area.
2. The area of the breach is shown in the following drawing with the breach varies from 0.540m and 1.090 metres as measured from the architectural drawing No. A3.01A – extract below –



Above - indicating that most of the development sits below the height control plane and that only a relatively small section breaches the control.

- Red arrow =11m height control,
- Blue circle indicates the area of the breach from NIL to 1090mm
- Blue arrow =540mm and Yellow arrow =1090mm at the southern end.

2. The architect's 3D diagrams below from buildings at the rear in The Crescent demonstrate the visual difference between existing building (white outline) and the current consent (red outline) and that now proposed (right). A casual observer may find it difficult to differentiate.



Above – Fig. 6.0-1 – Current consent - Rear-The Crescent



Fig.6.0-2 – Proposed s4.55 (with approved shown in red)

Note: Outline of the existing building is also overlaid in the drawings. There is nil to a possible very small impact on views. A nil impact from the rear and a possible small impact from properties further to the north. However, these views are primarily impacted by the existing development at 7 Commonwealth Parade and its location close to Commonwealth Parade.

3.3. View Impact

A detailed view impact has been undertaken by the project architects and Colco Consulting. Please refer to the view impact assessment including photos and 3D drawings in our Statement of Environmental Effects submitted with the application.

We conclude that View corridors are maintained other than a small loss of the dense tree growth, and there are no negative impacts. A casual observer would be unlikely to differentiate. **The modifications proposed are acceptable and will not result in greater impact than the current consent.**

3.4. Shadow Impact

A detailed shadow impact assessment has been undertaken by the project architects and Colco Consulting. Please refer to the impact assessment including drawings in our Statement of Environmental Effects submitted with the application.

We conclude that the modifications result in a slight change in shadows to the current consent; however, the variation is minimal as demonstrated in the architect's shadow diagrams. The proposal achieves the DCP control requirements.

4.0. CONCLUSION SUMMARY

1. The raising of the basement level and the reduction in excavation will mitigate concerns of neighbouring properties relating to the potential to cause damage to their buildings and also results in improvements to vehicle safety and pedestrian access and safety. All being positive outcomes.

2. The overall ridge height above the MLEP Height control plane is over a relatively short distance by amounts varying from NIL to 1090mm with no apparent negative impacts as demonstrated in the Shadow diagrams and view analysis drawings, photos and montages prepared by the project architects and assessed in our Statement of Environmental Effects.

3. The height increase shown in the 3D drawings include outlines for the existing building, the current consent, and the proposed modifications. The modifications present as minimal and would be difficult for a casual observer to differentiate.

4. The potential impact on views is shown above and in the view assessment included in our Statement of Environmental Effects. The impact varies from NIL to a possible minimal impact from buildings to the north/northwest, and complies with the L&E Court principles.

5. The modifications proposed:

1. Do not conflict the MLEP Height planning objectives.
2. Have no negative environmental issues including views, shadows, or privacy and the proposal achieves the related planning objectives.
3. There are sufficient environmental planning grounds to justify contravening the height standard over a small area.
4. There is no public benefit in maintaining the Height development standard and the reasons leading to the increased height justify the height increase, namely.
 - To mitigate concerns of adjoining properties, particularly No. 7 Commonwealth Parade and the absence of structural drawings of that building including footings.
 - To improve driveway safety and people access to the building.
 - To improve the streetscape in Commonwealth Parade.
5. The development is in the public interest

6. Benefits achieved:

- Raising the basement level, and changing the layout results in a reduced basement footprint and elimination of driveway ramp access with resultant improvements in access and safety.
- The pedestrian entry to the building is relocated to the street level to provide level pedestrian accessibility and improve privacy to unit 1 and No 3.
- The elimination of the former driveway ramp increases entry and exit safety, and allows a vehicle to wait on-site if another vehicle is exiting rather than wait on the street. Positive.
- Unit 1 is reconfigured to fill in the area over the deleted ramp and also to relocate the family room to the previously common lobby. This allows a more 'complete' building design with the design of the levels above translated to ground floor level and a reduction in excavation by relocating floor area to the front of the building with better daylight access.
- Adjustments to some bedroom windows on ground floor and level 1 to comply with natural light, ventilation & fire regulations.
- Overall – the modifications result in a better building and improved outcomes.

7. We and our client strongly disagree with the comments contained in the unsigned internal staff memo and suggest they are not objective and not properly concluded.

We respectfully request that the Urban Design assessment be independently reviewed.

Yours faithfully,



Wayne Collins
Director

Qualification/Disclaimer

This report, Statement of Environmental Effects (SEE), is based on information provided by the instructing party and relates only to the information provided at the date of issue of this report and planning legislation applicable at that date. Colco has made what it considers reasonable enquiries in preparing this report; however, it cannot confirm the accuracy of architectural drawings or supporting consultant's specialist reports. Colco accepts these documents in good faith. The Statement of Environmental Effects is for the benefit of the client in regard to a development application for development on the subject site and not for any other purpose. Colco cannot forecast an outcome of a consent authority.

In preparing this report and reaching the conclusions stated, Colco, its officers and staff were required to make judgements on matters which are or may be incapable of precise assessment – being subjective in which others may reach a different conclusion. The statements, opinion and conclusions expressed in this report are made in good faith, reasonable belief they are correct and not misleading; and always subject to the limitation of accuracy of instructions and documents provided. Colco disclaims all liability to the extent permitted by law.