



24th February 2021

Northern Beaches Council
Development Determination Panel

Dear Panel Members,

RE: Submission in lieu of speaking at the postponed Development Determination Panel for MOD 2020/0572 - 48a Queenscliff Road, Queenscliff, NSW, 2096.

As the 24th February 2021 DDP was postponed to 2nd March 2021, please find this submission addressing new elements not previously included in submissions in lieu of attendance on the 2nd March 2021.

The owners indeed second the Council's DA Team's recommendation to approve this modification. There is however a statement regarding the landscaping in the Council report that is incorrect and requires correction. On page 11 as well as the final summary of the report, Council's DA team have stated "*The applicant is seeking consent to legitimise the as-built terraces that were otherwise required to be removed under the conditions of consent for DA2011/0360*". Despite Council's further statement that the landscaping in this current modification is "*in-keeping with the intended outcomes of the original development consent*" this former false statement puts into dispute the integrity in the way in which these works have been conducted, insinuating that the landscaping has been constructed illegally which is incorrect.

The panel meeting in 2011 where the parent DA was presented for approval, minuted that Council defer the decision subject to amended plans being lodged relating to various elements including this landscaped area. This was done and then, and only then, the plans were stamped. This was later confirmed by council to have occurred properly in a subsequent report in 2013 (*Report to Warringah Development Assessment Panel on 8 May 2013 page 12*). There should be no such allegation that the as built landscaping was ever anything other than approved works.

The reason the landscaping is included along with the mechanical ventilation and fire sprinklers in this modification is not to present anything that was previously knocked back but rather, use this process to clarify an ambiguous point regarding the RL's of the landscaped terraces as well as to delete the side path.

Council's Environmental Compliance team have already investigated the recurring neighbour claim that the landscaping is unauthorised. The Compliance team in turn confirmed that the landscaping is legitimate however also dubiously deemed that the RL's of the terraces were not in accordance with approved plans. For the owners to redress this order, to iron out what was a questionable conclusion considering the stamped plans have no RL's and consultation and agreement with the neighbours occurred at the time of placement (since reneged), the owners could either take legal action over the order OR alter the levels to Compliance's assumed levels OR include the as-built levels in a modification for clarity on the public record – which is the course taken.

The conduct by the owners over this 10-year development demonstrates their transparency and faith in the process. To date, the owners have avoided legal escalation because, they have believed that the stamped plans from 2011 should have spoken for themselves. However, following the unclear order from Compliance and this incorrect allegation in Council's report, it is evident that a dominating neighbour complaint has clouded the legitimacy of stamped plans. We trust that by incorporating the landscaping RL's into this modification as well as the removal of the side path for the benefit of the neighbours alongside the other items in the modification that the matter is clear, fair and final.

Finally, the list of standard conditions does not include the Fire Engineering Report r4 (FER r4) which is the primary report relating to the sprinklers. Rather the peer review of the FER is included in the listed reports only. This is possibly an oversight and the FER r4 (BCA Logic dated 23rd Sept 19) ought to be included in the list of standard conditions.

Kind regards,

Kate Gassmann - On behalf of the Owners Corporation of SP 4129