
Sent: 28/02/2019 3:17:20 PM
Subject: SP 10040. Mod2019/029-DA0367/2010
Attachments: Comments on DA Mod2019-029_DA0367-2010 final.pdf;

Dear Renee

I have attached my submission in relation to this modified DA

Thank you

David Schmidt

Attention: Development Assessment
Planner: Renee Ezzy
Mod2019/0029 – DA367/2010
Lot CP SP 10040 42 Victoria Parade Manly
28 February 2019

Re: SP 10040. Mod2019/029-DA0367/2010

Dear Renee,

I am the owner of Unit 1 of the Pacific Harbour building located at 42-44 Victoria Pde. Manly, on the western side of the subject modified DA. Unit 1 occupies the southeast corner of the building at ground-level. I request that modified application **Mod2019/029-DA0367/2010** be rejected on the grounds that it does not satisfy the conditions of approval set by the **2012 LEC Proceedings No. 10602 dated 2012**, and the **MIAP Notice of Determination dated 21 August 2014**, in relation to the enclosed south-facing balconies on Levels 1 & 2, and the further reduction of direct sunlight to the living space of Units in the southeast corner, resulting from proposed changes to the roof construction.

1. Enclosure of south-facing balconies on Levels 1 & 2

My objection here is based on a failure to meet the requirements of the **2012 LEC Consent Condition 94**, and the encroachment of the balconies upon the 11 metre set-back established by **Condition 1 of the MIAP Notice of Determination**. My main concerns are the visual bulk and scale of the building immediately adjacent the outdoor living space of the units of the southeast corner, and the loss of reflected and ambient sunlight flowing into the living space of these units (especially Units 1 & 5), **already severely impacted by almost complete loss of direct sunlight at the winter solstice (see Point 2)**.

Submission made in relation to Mod2018/0294 on this issue

The 11m setback from the boundary of 14-47 Ashburner St was established by Condition 1 of the MIAP Notice of Determination dated 21 August 2014, 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”.

*Furthermore, 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 ambient 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 Levels 1 & 2 will be fully enclosed on the western ends with a concrete wall, and covered by fixed louvres on the southern sides. Instead of open balconies, these areas become closed-in bedrooms.*

2. Loss of direct sunlight

The shadow diagrams of the modified DA (Figure 1a: Modified DA 11am & 12 noon) show Unit 1 in shadow of the proposed development until midday at least. This is a substantial loss of direct sunlight compared with the original 3 storey building prior to its demolition. The shadow diagram of

the approved DA (Figure 1b: Approved DA S96-402 11am & 12 noon) indicates some direct sunlight could still be received into the internal living space of Unit 1 around midday and from 11am on in Unit 5. It is believed this is made possible by the roof “cut-out” on the western side of the roof, which was consented to in the 2014 MIAP determination to provide access to direct sunlight in both Units 1 & 5. The “cut-out” appears to be diminished in size in the modified DA (compare drawing 2424-A111 dated Dec 2018 with S96-200 dated Dec 2012), reducing any derived benefit. Unit 1 has a flat-roof room at the rear of the building extending it by 3.3 metres, which does not appear in any of the shadow diagrams. It is believed the overshadowing of the reduced “cut-out” will adversely affect its sun access also.

On the basis of these shadow diagrams, there is significant deterioration in sun access for both Units 1 & 5, resulting from the proposed modified DA.

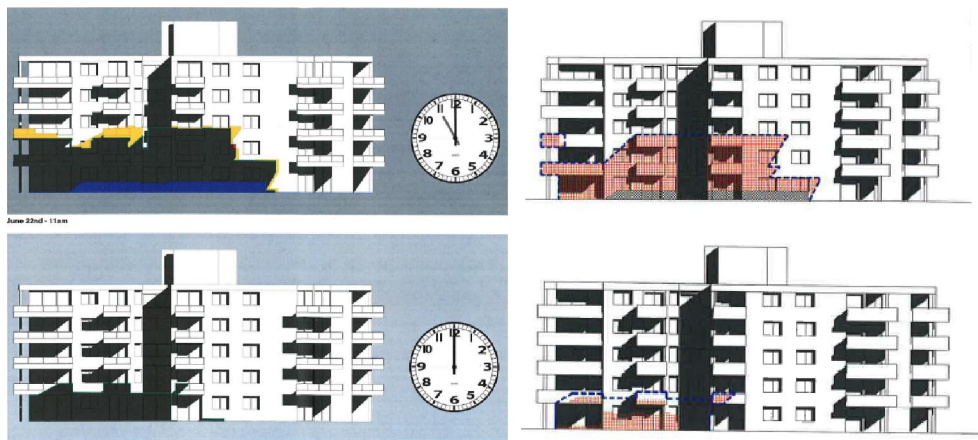


Figure 1a: Modified DA 11am & 12 noon

Figure 1b: Approved DA S96-402 11am & 12 noon

In Summary

I request that the open construction of south-facing balconies of Levels 1 & 2 be maintained, pursuant to 2012 LEC Consent **Condition 94** and 2014 MIAP Determination **Condition 1**, and that obscure glass balustrades to a height of 1.6m are installed on the western side of south-facing balconies at all levels, pursuant to **Condition 100** of the 2012 LEC Consent.

Furthermore, there are significant differences between the shadow diagrams of the approved DA (S96-402) and its representation on the modified DA shadow diagram. On the basis of the set of diagrams provided, I request the modified DA be rejected on the grounds of further reduction of direct sunlight into Units 1 & 5.

Thank you

David Schmidt

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