
Sent: 28/02/2019 2:10:27 PM
Subject: MODIFICATION APPLICATION: MOD 2019/0029 DA367/2010
Attachments: SP 34151 objection.docx;

Attached is a response to MOD 2019/0029 including a request for extension of time to permit proper scrutiny of the shadow diagram

Geoff Kaye
Treasurer SP 34151

28 February 2019
General Manager Northern Beaches Council
Email: council@northernbeaches.nsw.gov.au

**Att: Development Assessment
Planner: Ms Renee Ezzy**

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

SECTION 96(AA) COURT CONSENT – DEMOLITION OF EXISTING 3-STOREY APARTMENT BUILDING AND CONSTRUCTION OF A 7-STOREY RESIDENTIAL FLAT BUILDING CONTAINING 13 UNITS WITH 2 LEVELS OF BASEMENT CARPARK, DECKS AND LANDSCAPING

Dear Sir/ Madam,

I write as Treasurer of the Executive Committee of the Owners Corporation of Strata Plan 34151 for the residential apartment flat building at 42-44 Victoria Parade, Manly, the adjacent site to the west of 46 Victoria Parade which is the subject of Mod 2019/0029.

The purpose of this submission is to lodge an objection to Council against the subject Modification Application with the primary issue being that the Application has an unacceptable effect on the amenity of residents of SP 34151 as a consequence of loss of solar access and view loss to some apartments.

As Council would be aware, the site at 46 Victoria Parade has been the subject of a number of applications over the past 8 plus years comprising:

Application No.	Date Submitted	Determination
DA367/2010 – the initial development application	08/11/2010	Approved by the LEC on 23/01/2012
Section 96AA Modification Application	22/07/2011	Approved by LEC 09/10/202
Section 96AA Modification Application	07/02/2014	Approved by MIAP 21/08/2014
Section 96 Modification Application No. MOD2018/0294	14/06/2018	Refused by Northern Beaches Local Planning Panel on 04/12/2018
Current Modification Application No. MOD2019/0029	31/01/2019	Not yet determined

Council will appreciate that these regular Modification Applications to the original consent granted for redevelopment of the residential flat building at 46 Victoria Parade, Manly is most concerning for the residents of Strata Plan 34151, particularly when the proposed modifications have involved several iterations of shadow diagrams prepared for the initial DA. It is extremely difficult for residents to achieve an accurate interpretation of the implications of the various Modification Applications for their property, particularly so when the current Modification Application has been submitted more than 8 years after the initial development application (DA No. 367/2010) was submitted to Council. Residents are

concerned that this process has resulted in a gradual “creep” in loss of solar access as a consequence of the repeated Modification Applications.

As a consequence of these circumstances, the Owners Corporation of SP 34151 has resolved to engage an experienced consultant, Ms Pam Walls, to prepare shadow diagrams affecting their residential apartment building for the following conditions:

- a) Before the initial development application was approved by the LEC in October 2012 when the site was occupied by a 3-storey residential flat building with a rear open back yard used for parking.
- b) The development approved by the most recent consent granted by MIAP to a Modification Application in August 2014.
- c) The development proposed by the current Modification Application, Mod 2019/0029.

However, it is anticipated that this work will require approximately 3-4 weeks to complete, and Council is therefore requested to extend the deadline for submissions to the Notification of Mod 2019/0029 until COB 31 March 2019. While the consequent delay to the development control process is regretted, Council will appreciate that it is relatively insignificant when compared to the 8 plus years duration over which Modification Applications have been submitted to Council in respect of the initial LEC consent. Understandably, the Owners Corporation of SP 34151 is reluctant to engage Ms Walls to commence her work until the proposed extension of the deadline for submissions has been granted by Council to avoid the significant cost of the work in circumstances where it might not be able to be used. Council is respectfully requested to advise whether the deadline extension to 31 March 2019 will be granted as soon as possible so that Ms Walls can be engaged.

An indication of the residents’ objections in respect of the loss of solar access is provided by the matters described in the attached *Schedule of Residents Objections*. While this schedule concentrates on loss of solar access to residents of SP 34151, a number of other objections are brought to Council’s attention including:

- i) Implications of the proposed change to the roof profile approved by the LEC and MIAP.
- ii) Implications of the proposed increase in the floor levels in the proposed development. The currently approved plans were determined to accomplish equitable view sharing from the front units of 42 - 44 Victoria Parade across front balconies at no. 46. The floor levels increase at each level, to a considerable 465 mm at level 4 (proposed RL 17.730 v approved 17.265).
- iii) The consequent increase in the levels of the balconies and the use of full height concrete balustrading.
- iv) There is no justification for the enclosure of the rear balconies on Levels 1 and 2 in order to provide extra floorspace for the bedroom and living room on those levels.

v) Conditions 1 and 100 imposed by the LEC in 2011 and further approved by the LEC in 2012 and MIAP in 2014 should be retained.

vi) The addition of fixed louvres at the rear of the site facing the southern boundary is inappropriate.

vii) The veracity of the SEPP 65 Statement which says that “....*all of the units are owner occupied*” is questioned.

viii) The drawings which accompany Mod 2019/0029 highlight 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. There are many more changes proposed by Mod 2019/0029.

ix) The plans which accompany Mod 2019/0029 incorporate modifications proposed by Mod 2018/0294 as if they were approved when, in fact, that Application was refused.

x) Information not shown on the Mod 2019/0029 plans including (a) how the stairs for the basement are to be accessed from the ground level; (b) where the 2 fire safety walls are to be placed as requested in the Fire Study report of 2018; and (c) the location of the visitors' bike rack near the lobby as proposed by the SEPP 65 Statement.

xi) A number of issues are taken with matters addressed in the SEPP 65 Design Verification Statement 2019 including:

- ♣ Principle 2: Built form and scale.
- ♣ Principle 3: Density.
- ♣ The floor – ceiling height of 3.05m significantly exceeds the ADG recommendation of 2.7m.
- ♣ Principle 5: Landscape.
- ♣ Principle 6: Amenity.

In anticipation of the timetable extension being granted by Council, it is requested that Council accept this document as an *interim* submission to the Notification of Mod 2019/0029, to be finalised following preparation of new shadow diagrams by Ms Pam Walls prior to the 31 March 2019.

We would request that Council provide Ms Walls with electronic access to all modifications included in this application.

Yours faithfully



Geoff Kaye

Treasurer Strata Plan 34151

