

**The Owners – Strata Plan 13394  
44-46 Fairlight Street & 3-5 Hilltop Crescent  
FAIRLIGHT NSW 2094**

23 April 2019



The General Manager  
Northern Beaches Council  
Council Chambers  
1 Belgrave Street  
MANLY NSW 2095



Dear Sir

**DEVELOPMENT APPLICATION NO. DA2019/0308 FOR DEMOLITION WORKS AND  
CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL**

**PROPERTY: 5A HILLTOP CRESCENT, FAIRLIGHT**

The Owners – Strata Plan 13394 ("Owners") are the owners of the land and buildings situated at 44-46 Fairlight Street & 3-5 Hilltop Crescent, Fairlight which adjoin the subject development site to its east.

The Owners object to the proposed development for the following reasons:

**1. Height**

- (a) the development exceeds the LEP height limit;
- (b) the development exceeds the DCP wall height control.
- (c) the LEP height control and DCP wall height control evidence the desired future character of the area. They envisage a building of less height and less bulk.

- (d) the portion of the development which is above the LEP height limit will have impacts upon our property in terms of overshadowing, visual privacy and visual bulk and do not meet desired future character controls. This is inconsistent with objectives (a), (b) & (d) of clause 4.3 of the LEP. Accordingly the height limit cannot be varied under clause 4.6 because:
  - (i) the objectives of the standard are not achieved; and
  - (ii) there are NOT sufficient environmental planning grounds to justify the breach; and
  - (iii) the proposed development is not consistent with the objectives of the LEP height standard.

## **2. Stormwater Disposal**

- (a) Our property is currently adversely affected by stormwater run-off.
- (b) The geotechnical report submitted with the DA recommends that the development obtain an easement to drain its stormwater through the downstream property to dispose of stormwater to Fairlight Crescent. It suggests as a "last resort" the use of a spreader.
- (c) The geotechnical report records that the ground contains a thin layer of soil over sandstone. The spreader will only result in water running off onto our property and the other downstream property exacerbating the existing run-off problem. This is unacceptable and an easement should be obtained rather than the use of a "last resort" spreader.

## **3. Privacy**

- (a) Although no architectural section was notified, there is a section attached to the geotechnical report. This section demonstrates that the stair access and roof terrace breach the height limit. The terrace and its associated structures create additional bulk, overshadowing and privacy impacts and should be deleted. We also question the validity of the existing ground level used to calculate height having regard to works undertaken on the site.
- (b) The balcony off the living room protrudes forward and is located above the balcony level of our unit 14. The balcony should be pulled back to the same

alignment with an effective fixed louvred privacy screen installed to prevent overlooking of the balcony of no. 14. We request that the assessing officer inspect the balcony of our unit 14 to understand the level relationship and privacy impacts.

#### **4. Overshadowing**

- (a) The shadow diagrams are insufficient. They should be provided at half hourly intervals from 12 noon and a proper analysis undertaken given that the height, wall height and setback controls are breached.
- (b) The proposed development will result in loss of solar access from non-compliant elements of the proposal. Some of the windows subject to the additional overshadowing are living rooms.

#### **5. Excavation**

- (a) The development proposes excavation for the dwelling and the pool. The depth of excavation at 1.5m and 2m exceeds the DCP control of 1m. There is no reason why this control cannot be met.
- (b) The purpose of the height control, wall height control and excavation control is to encourage buildings to step with the topography. This is not achieved by the dwelling design. There would also appear to be opportunity to reduce the pool excavation.
- (c) The geotech report shows that the excavation is into rock.
- (d) Our property sits on and within the same rock and will be subject to vibration which will impact our building.
- (e) Excavation should be avoided or if approved controlled with strict conditions including a dilapidation report before and after with the developer to rectify all damage caused by the development to our property.

#### **6. Setbacks**

- (a) The development does not comply with the minimum side setback controls.



- (b) As the building is proposed to be 3 storeys, where the desired future character is 2 storeys, the proposal should meet the minimum setback requirements.

**7. Floorspace Ratio**

- (a) There is no floorspace ratio calculation diagram provided, presumably because it shows internal layouts.
- (b) We request that a copy of the FSR calculation plan be made available.

**Yours faithfully**

**The Owners – Strata Plan 13394**

A handwritten signature in blue ink, appearing to read 'BS Shields', with a stylized flourish at the end.

**Brian Shields**

**Chairman**