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**RE: DA2019/1149 - 11 Moore Street CLONTARF NSW 2093**

General Manager  
Northern Beaches Council

Re: Development Application DA2019/1149  
11 Moore Street, Clontarf

I would like to lodge a submission regarding the above development proposal. My concerns are listed below:

1. Inaccurate Site Information

The existing improvement of the site comprises a two storey dwelling house and a swimming pool.

The marketing information of the property in the realestate.com.au website includes the floor plans of the dwelling house comprise:

Lower Ground Level (L1)

- Rumpus (8.5x3.5m)
- Bathroom
- Workshop (3.9x2.5m)
- Sauna (1.9x3.2m)
- Living (5.6x6.2m)
- Storage/laundry
- Store
- Internal stairs
- Study (2.8x2.3m)
- Bed 4 (2.7x4.3m) and
- Garage (4.9x5.9m)

The gross floor area of L1 is approximately 98m<sup>2</sup> plus the area of bathroom, and storage/laundry.

Ground Level (L2)

- Enclosed porch (4.4x2.7m)
- Sunroom (4.4x2.6m)
- Dining/Lounge (8.1x7.6m)
- Kitchen (3.6x2.7m)
- Foyer (4.7x3.1m)
- Bathroom
- Bed 1 (4.1x3.5m)
- Bed 2 (3x3.8m)
- Bed 3 (3x2.6m)

The gross floor area of L2 is approximately 142m<sup>2</sup> plus the GFA of the bathroom.

The applicant has not shown the area of the workshop, sauna, storage and rumpus on the "Basement Floor Plan". This level is above the existing ground level and does not meet the definition of basement in Manly LEP 2013.

The floor area shown as "56m<sup>2</sup>" on "Basement Floor Area" is incorrect and misleading.

## 2. Building Height

The maximum permitted building height is 8.5m for the site in accordance with Clause 4.3 of Manly Local Environmental Plan (LEP) 2013 and the objectives of the standard are:

- To provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality;
- To control the bulk and scale of buildings;
- To minimise disruption to views from nearby residential development to public spaces (including the harbour and foreshores)

The proposed building height is 9.45m which is identified on Section A-A (RL61.63-RL52.18) and exceeds the development standard of 8.5m by 0.95m or 11%.

The proposal results in a three storey building with an excessive bulk and scale which is inconsistent with the prevailing building height of two storey dwelling houses and creates a significant view loss impact on my property at 14 Moore Street.

## FSR

Based on the marketing information, the gross floor area of the proposed development is more than 331m<sup>2</sup>, or a FSR greater than 0.45:1. The proposal exceeds the development standard of 0.4:1 for the site in Clause 4.4 of Manly LEP 2013.

## 3. No Written Request to the Exception to Development Standards

The proposal fails to comply with the height of buildings and the FSR standards of Manly LEP 2013 and Clause 4.6 of Manly LEP 2013 states development consent

must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development by demonstrating-

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) That there are sufficient environmental planning grounds to justify contravening the development.

The applicant states the proposal meets the height of buildings and FSR standards and no written request for the exception of the development standards were lodged with the development application.

Council is therefore has no power to grant consent to this application in accordance with Clause 4.6 of Manly LEP 2013.

#### 4. Loss of View Impact

The proposal results in a significant loss of view impact on my property at 14 Moore Street. I have used the principle of view sharing of NSW Land and Environment Court (*Tenacity Consulting v Warringah* (2004) NSWLEC 140) to identify the adverse view loss impact on my property.

The first step is the assessment of view to be affected. Water views are valued more highly than land views. Iconic views (eg of Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole view are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The impacted view is view to Middle Harbour and Balmoral Beach. They are water and iconic views and considered highly valuable.

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The impacted views we currently enjoy are obtained from our kitchen, living room and outdoor recreation terrace across the front boundary of our property.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss

qualitatively as negligible, minor, moderate, severe or devastating.

The views from our kitchen, living room and outdoor terrace are obtained from our primary living area for the whole family and the impact is severe.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to the question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The proposal fails to comply with two development standards (height of buildings and FSR) which are the mechanical tools to control of the footprint, bulk and scale of the building. The view loss impact from the proposal development is considered unreasonable.

The proposal significantly and unreasonably reduces the amenity enjoyed by our family and is not consistent with the objectives of the zone and the development standards.

## Conclusion

The excessive floor space ratio, height, bulk and scale of the proposed development are unsuitable for the subject site, resulting in an over development in the context of the surrounding built form.

The subject site is not the size that is reasonably capable of accommodating development of this scale in this location.

The application should be refused consent.