23 Lauderdale Ave Fairlight NSW 2094 12 May, 2015

The General Manager, Manly Council 1 Belgrave Street Manly NSW 2095

Reference: Objection to Sect 149B Building Certificate 9/2015 (DA 304/2011 & 20/2014)

Dear Sir,

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We wish to lodge our objections to the Sect 149 Building Certificate, 9/2015, in respect to unauthorised works at the development at No 6 Fairlight Crescent, Fairlight.

We strongly object to approval being granted for the unauthorised Subject Works "A", being the 'lift overrun' in Unit 6. From the outset we wish to state that this was not an oversight as claimed by the developer as approval was never sought. It is clear it was a calculated ploy by the developer to have these unauthorised works passed without proper assessment and process. The developer has attempted to use this tactic a number of times on this development.

On the 5 September, 2014 a Section 34 Land and Environment Court proceeding took place on site in the presence of Commissioner Annelise Tuor in respect to a Section 96 application for DA 304/2011 and a new DA 20/2015. Without notice and prior advice the developer produced a number of amended plans requesting a widening of the north eastern roof top wall of Unit 5 to allow for the provision of a lift. None of these plans showed a lift overrun above Unit 6.

Together with Council representatives we indicated to the Commissioner that the presentation of these amended plans on site was unreasonable as a proper assessment could not be made at such short notice. The Commissioner allowed certain discussion in respect to this issue and said she would subsequently consider the matter. All discussions related specifically to Unit 5 and there was absolutely no reference to the provision for a lift or 'overrun' above Unit 6. Furthermore, no elevation plans were produced showing the roof profile.

Commissioner Tuor subsequently approved the amendments in respect to Unit 5 and new approved plans were later certified. None of the approved plans DA 103 A (Fairlight Cr Elevation), DA 105C (South West Elevation) and V3 (Balcony & View Access) show an 'overrun' above Unit 6.

In discussions with the Commissioner we elaborated on the impact this development has had on our views and the importance to us to maintain a view corridor above the roofline of Unit 6. There has been significant opposition to this development due to the resultant 'loss of icon views' and attempts by us and neighbouring residence to maintain some form of view corridor. Therefore, any attempt to have a 'lift overrun' above Unit 6 would have been strongly objected to and we believe no doubt rejected by the Commissioner.

It is our understanding from our discussions with the Commissioner and Council that our view corridor above Unit 6 would not be further compromised. This is clearly evident from the 'Special Conditions' placed on this development by the Commissioner in her Decision which specifically relate to 'no' structures being permitted to be placed or maintained in this area.

The unauthorised constructed 'lift overrun' has resulted in the further loss of our iconic view of the land/water interface of Quarantine Beach from our first floor balcony.

Furthermore, it is clear the developer has no intention to install a lift in this location. The construction of the Subject Works "B", the wall and doorway between the hallway and dining room makes the installation in this area impossible. The unauthorised construction of the 'lift overrun' serves no purpose other than to further diminish our already significant view loss.

We ask Council 'NOT' to approve the Subject Works "A" as sought in the Section 149 application and have the developer remove the unauthorised works from above Unit 6 prior to the issue of the Occupation Certificate.

**Yours Sincerely** 

Ewhen and Ann Hreszczuk