From:	DYPXCPWEB@northernbeaches.nsw.gov.au
Sent:	23/08/2024 12:09:23 PM
To:	DA Submission Mailbox
Subject:	Online Submission

23/08/2024

MR Tom Oates
71 / ST
Freshwater NSW 2096
[redacted]

RE: PEX2024/0005 - 31 Moore Road FRESHWATER NSW 2096

We object to the rezoning application.

There is no DA with the rezoning application

The developer hasn't submitted a DA with the rezoning application as allowed and contemplated by division 3.5 of the EPA Act.

Submitting a DA with the rezoning application would have been a fairer and more transparent and upfront way for the developer to have proceeded.

The problem with a rezoning application without a DA is that once the rezoning application gets through the State Government "Gateway", the gates are open and it would appear that the developer is not bound by the 'concept plans' submitted as part of the rezoning application.

Accordingly, the bulk and scale, number of studio apartments, parking etc outlined in the 'concept plans' may well be the minimum or starting place for a DA submitted once the rezoning application is approved and the gates are open.

If refused by Council, such a DA could well end up in Court. This is what transpired with the developer's last DA for the site, with a win in Court for the developer.

There is no (voluntary) planning agreement with the rezoning application

The developer hasn't submitted a draft (voluntary) planning agreement with the rezoning application as allowed and contemplated by the EPA Act.

Given there has been no DA submitted and given the non-binding nature of the developer's 'concept plans', Council and the community should invite the developer to submit a draft (voluntary) planning agreement.

Voluntary planning agreements are a typical way in which a developer, seeking a special advantage or benefit from Council and the community, can (a) offer something back to the community; and (b) agree, in a binding way, the parameters of the development.

A (voluntary) planning agreement would be a good way for Council and the community to be

reassured about the development and to have input as to the proposed development of the site in a way that is binding on the developer. This way, when the developer later lodges a DA, Council and the Court must take into account the terms of the (voluntary) planning agreement.

At the moment, when the developer lodges a DA after the gates are open, the developer is not bound by the 'concept plans' and Council and the Court are quite entitled to approve a development that is different to the submitted ‘concept plans’.

Rezoning application unnecessary

Apart from 64 Undercliff Road, which is just a normal low density residential R2 block, the other 6 lots at the site are already zoned for hotel accommodation.

If the developer is just seeking hotel (pub) accommodation for its patrons, it would appear that there is no need for the rezoning application because the standard planning definition of "pub" includes accommodation.

"pub means licensed premises under the Liquor Act 2007 the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises"

Without a DA or a (voluntary) planning agreement, Council and the local community should be cautious about affording the developer a ‘blank cheque’ by way of a rezoning, especially when the zoning for the 6 lots already allows hotel or motel accommodation.

What is the purpose for the self-contained units - tourists and holidaymakers, serviced apartments?

The sought rezoning of hotel or motel accommodation is a type of tourist and visitor accommodation, which is defined to mean a building or place that provides temporary or short-term accommodation on a commercial basis, and includes backpackers’ accommodation, bed and breakfast accommodation and serviced apartments.

As a practical and enforceability matter, there is very little difference between hotel or motel accommodation (rooms or self-contained suites that may provide meals to guests or the general public) and backpackers’ accommodation, bed and breakfast accommodation.

There is also very little difference between hotel or motel accommodation and serviced apartments (self-contained accommodation that is regularly serviced or cleaned by the owner or manager of the building).

Once rezoned as hotel or motel accommodation, as a practical matter, there may well be little to stop the developer from using the (37+) self-contained suites as backpackers’ accommodation, bed and breakfast accommodation and serviced apartments.

Minimum 5 storey building

The concept plans refer to a 5-storey accommodation building - 2 levels of parking and 3 levels of accommodation as follows.

Level 5 - 13 Units
Level 4 - 13 Units
Level 3 - 11 Units
Level 2 (basement) - 34 Car Spaces
Level 1 (basement) - 38 Car Spaces

This is a significant building in bulk and scale and, as mentioned above, this is likely to be the minimum building envelope in a future DA.

Is this consistent with Council's master (and coastal) plan for the low-density residential area of Freshwater?

Does this 5-storey accommodation building align with the views of the local community?

Minimum of 37 self-contained units

The concept plans show 3 levels of accommodation, totalling 37 self-contained units.

Are (a minimum) of 37 self-contained units consistent with Council's master (and coastal) plan for the low-density residential area of Freshwater?

Do (a minimum) of 37 self-contained units align with the views of the local community?

Minimum of 72 car spaces

The concept plans show 2 basement levels of car spaces, totalling 72 car spaces.

Can the local streets handle the additional traffic from an extra 72 cars?

Can the local streets handle staff having to park on the streets if the 72 car spaces are being used by tourists and holidaymakers?

64 Undercliff Road - no justification to rezone normal R2 block

There appears to be little or no justification to rezone the normal low density residential R2 block, 64 Undercliff Road, just because it is adjacent to lots having different zoning and happens to be owed by the developer.

This would set a dangerous precedent in allowing developers to buy up adjacent blocks and apply for a rezoning just because they already own differently zoned, adjacent, blocks.

Regards, Tom Oates