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Subject: Online Submission

01/10/2021

MR Paul Brisby
33 moore RD
freshwater NSW 2096
[REDACTED]

RE: DA2021/1620 - 31 Moore Road FRESHWATER NSW 2096

My family has owned and resided in the adjoining residential property to the east of the Harbord Beach Hotel for over 60 years. We have lived in relative harmony with the existing licensed premise in its current form. This proposed development application will see the existing first floor residential component of the pub converted to additional commercial floor space with the intended use being a bar, entertainment facility and a live recording studio. The proposed works will see a breach of the Council's height limit and non-compliance with the Council's land use parking requirements. In a nutshell this application will see the significant intensification of land use with at least a doubling of the existing operational commercial floor space.

I as the adjoining land owner wish to strongly object to this application on the following grounds;

* Non-compliance with the objectives of the Warringah LEP 2011 - Land Use Zoning. The site and surrounding sites are zoned R2 Low Density Residential with the pub being a prohibited use -for obvious reasons. The primary objective of the R2 zoning is to provide the housing needs of the community within a low density residential environment. A significant intensification of the existing "non-complying" land use hardly conforms with the intent of the objectives of the land use zoning. Whilst it is acknowledged that the existing pub provides a community resource the doubling of its size is not warranted nor is the addition of live music facilities, in particular a recording studio suggested as being ancillary to the use of the site as a "local pub". The existing first floor has always been used as the private residence of the licensees who always lived on site. A characteristic which I believe adds to the nature of the pub being a "local community pub". Removing this residence from the premise and replacing it with additional commercial floor space goes against all the objectives of the current R2 land zoning.

My family over the years regularly deals with the anti-social behaviour often associated with pubs. We regularly encounter discarded bottles/glasses within our front garden and property as well as having to deal with customers of the pub urinating and loitering within our property. In the past we had a fairly good relationship with the long standing licensees who lived on site and we could call them to report such incidents. Removing the residence from the facility will only further the likelihood of the existing anti-social behaviour worsening.

*Non-compliance with the parking requirements of the Warringah DCP 2011. Appendix 1 of the DCP sets out the parking requirements for particular land uses. A pub is defined in the DCP and the requirements are clearly stated. Pubs are required to comply with comparison assessments of similar developments noting the supply/demand for parking associated with the particular uses within the pub. The applicant has submitted an assessment that completely ignores the DCP requirements and provides an assessment that in my opinion is totally irrelevant to the application at hand. There are ample examples of similar developments in the Northern Beaches LGA such as the Time and Tide Hotel, Dee Why, The Belrose Tavern, Belrose, The Terrey Hills Tavern, The Mona Vale and The Newport. All of these are similar developments with on site parking. The applicant needs to make an assessment of these facilities as required by the DCP.

Notwithstanding this the applicant's consultants have suggested that the proposal will provide an additional 8 on site parking spaces yet fails to show where these 8 spaces will be provided. I am very familiar with the existing on site parking arrangement and I fail to see how the applicant can provide any additional complying on site parking spaces unless they intend to demolish part of the existing bottle shop on site. I would like to draw your attention to a Land and Environment Court decision back in the late 1990's

associated with a virtually identical application to convert the first floor of the pub to bar and function room space. The elected Warringah Council approved the application without the provision of any additional parking spaces. A group of residents including my family appealed this decision to the Land and Environment Court predominantly on the grounds of lack of additional parking spaces. The matter was heard by Commissioner Graham Brown, who I believe is a current member of the Northern Beaches Planning Panel. Commissioner Brown upheld the appeal and refused the application on the grounds that it failed to provide sufficient parking on site to cater for the demand generated by the proposal. Commissioner Brown found that the provision of adequate on site parking was a fundamental planning requirement and the failure to do so was a fatal planning flaw in any development application. I suggest that this application suffers from the same fatal flaw as the one heard by the Land and Environment Court.

*Non-compliance with building height requirements. The proposed additions to convert the attic to a recording studio will see the building exceed the height limit of 8.5m specified in clause 4.3 of the Warringah LEP. This non-compliance is not warranted for a use that is not part of a local community pub and will also detract from the heritage value of the existing building.

In summary I believe that the application has 3 fatal flaws that lead to the conclusion that the application should be refused. Firstly significant intensification of a non-complying land use within a R2 Low density residential zone. Secondly, non-compliance with the parking requirements of DCP 2011 and thirdly, non-compliance with the height requirements of clause 4.3 of the Warringah LEP.

Thank you for the opportunity to make this submission and I wish to be informed of any decision made and when the item would be considered by the Local Planning Panel