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**RE: DA2019/1119 - 4 / 0 Bennett Street CURL CURL NSW 2096**

Re: Objection: Application Number: DA2019/1119

We object to the proposed development.

The scale (50 stalls, plus rides, plus live music) and frequency (every Sunday for 5 years) of the proposed market is out of keeping with the residential character of the area. The stalls and associated noise and traffic impacts will be located only a few metres from residences.

Under the Warringah LEP consent must not be granted to a temporary use unless Council is satisfied that "the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood". The nature of this test in clause 2.8 was described by (now) Justice Moore in *Marshall Rural Pty Limited v Hawkesbury City Council and Ors* [2015] NSWLEC 197 at 116 as follows:

"This test, cast in absolute terms reflecting the seriousness with which an application of this nature is required to be assessed, puts a very high hurdle in the path of any such application. The placing of such a hurdle requires that the Council must approach the consideration and determination of any such application with a marked degree of precision and caution."

Thus, the requirement is not for a merely potentially acceptable impact but demonstration of the absence of an adverse impact.

The neighbourhood is a quiet residential area already subject to some traffic/parking stress associated with the use of the adjoining sporting fields and facilities on the weekends. The proposed 50 stall markets commencing at 7am each Sunday with live music and rides will clearly have adverse amenity impacts on the neighbourhood.

These impacts arise because of the close proximity to the site of a large number of residential dwellings and the lack of adequate and sufficiently proximate parking. The location is just not suitable for a large scale regular market. The extensive nature of the traffic controls proposed is testament to the adverse amenity impacts anticipated.

We note that the only other regular markets held by the applicant, Cambridge Markets, are in the Entertainment Quarter. We also note that Council recently approved a further subdivision of the adjoining residential block at 31 Bennett St, such that 4 residential blocks will share a boundary with the area of Harbord Bowling Club proposed for the 50 market stalls.

There are significant uncertainties associated with the traffic impacts as assessed (ignoring the inaccuracies in the pedestrian and bus arrangements suggested). Having regard to the nature of public transport in the area, the distance between the suggested bus stops and the site and

the lack of visibility of the site to public transport it is probable that the majority of visitors (as well as the stall holders and management staff) will drive.

The statements made in the traffic report regarding the availability of parking may not be reflective of what will happen in practice.

- The proposed availability of onsite stall holder parking along the western boundary appears overstated having regard to the limited width of the driveway area and existing plantings;
- The 22 space cricket/AFL parking area is unlikely to be empty (especially given AFL is played on Sundays);
- The practical benefit of the asserted 89 spaces at Freshwater Campus is unclear. Is it proposed that Freshwater Campus will unlock its gates to make its staff parking available to the public on weekends? If this is the case it is unlikely that the public will find this parking area, let alone walk the approximately 500m to the markets. If the parking referred to is the open (unfenced) public parking area adjoining the school on Harbord Road - this area is also close to 500m from the proposed markets and is already usually fully occupied on Sundays by vehicles associated with sporting events.

While it is proposed that the music will be orientated towards the park and away from residential areas - it is unclear how this can occur given that the markets are concentrated in the area closest to residents, along the eastern boundary of the adjoining private properties on Bennett Street.

We note that Council is currently trialling a smaller market next to the Freshwater shops. This would appear to be a more suitable scale and location (especially to address the current (and temporary) lack of grocery/fresh food shopping in Freshwater).

The development as proposed will adversely impact on adjoining land and the amenity of the neighbourhood and should be refused.