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25 January 2018

Mark Ferguson, Chief Executive Officer
Northern Beaches Council
Civic Centre
725 Pittwater Road
Dee Why NSW 2099

Attn: Mr. Adam Mitchell, Planner, Development Assessment

Re: Development Application No. DA2017/1294 - Demolition works and the construction of a shop top housing development with ground floor car parking – 9 and 15 Lawrence Street, Freshwater

This submission is lodged in respect to the above Development Application and in respect of the planning control instruments of the Warringah LEP 2011 (WLEP) and Warringah DCP 2011(WDCP) including Part G5 Freshwater Village controls. Set against this background, this Development Application raises a number of important concerns for the surrounding community, which forms the basis of this submission.

In summary, concerns raised include:

1. Driveway access from Lawrence Street, concerns for pedestrian safety, loss of active shop frontages, parking
2. Shortfall of neighbour notification
3. Built form
4. Electromagnetic field source (Harbord Substation & Telstra Communications Tower)

1. Driveway access from Lawrence Street, concerns for pedestrian safety, loss of active shop frontages, parking

With both Development Applications DA2017/1287 and that neighbouring DA2017/1294, there are significant issues with the location of the proposed driveway access points from Lawrence Street, Freshwater that have not been adequately addressed in both applications.

Both the G5 Freshwater Village controls and the Warringah DCP 2011 (C3 Parking Facilities) specifically make reference to 'minimising the visual impact of vehicle entrances', the encouragement of 'active frontages (shop fronts) along Lawrence Street' as well as for these access points to 'not be readily apparent from public spaces; provide safe and convenient pedestrian and traffic movement; and provide adequate provision for staff, customer and courier parking, and parking and turning of vehicles with trailers must be provided if appropriate to the land use.'

Having reviewed both Statement of Environmental Effects and associated reports provided by the relevant planning consultants, no substantiated evidence has been provided that adequately addressed these concerns. As referenced in a document prepared by the Department of Infrastructure, Regional Development and Cities (Cwth), 'The built environment itself could be creating much of the risk; children (and older people) are forced to confront vehicle traffic as they walk around the neighbourhood or city streets... Assessment of *(these)* risks in the built environment falls within the ambit of town planning *(in other words, Council)*... Many current built

environments give priority to vehicle movement rather than pedestrian movement or safety'. (Source: 'Child pedestrian safety: 'driveway deaths' and 'low-speed vehicle run-overs', Australia, 2001–10' Department of Infrastructure, Regional Development and Cities (Commonwealth of Australia, 2012).

Concerns with the proposed driveway access points along Lawrence Street are further supported in a 2015 Manly Daily article that specifically highlighted residents' and Council's concerns with the street. An employee of Splice Boutique (7C Lawrence Street, Freshwater) with regards to the street stated "It's unbelievable some of the near collisions... It's only a matter of time before someone is seriously hurt or killed... The angle of the road creates a blind spot with the side panels of your car... You also sometimes have the sun in your eyes, which makes matters worse". The employee further stated that too often she sees children almost hit. "I've seen mums walk across the road and their toddler is trailing behind them and they're not even looking," In the article, a Council spokesperson "admitted the area is a danger zone" (Source: Alison Marks, Manly Daily 2015).

Having been a long-time resident of Freshwater who has witnessed numerous instances of the conflict between vehicles and pedestrians in Lawrence Street, it is difficult to fathom a situation whereby proposing two major vehicle access points to disrupt pedestrian flows and increase safety risks along a local street (that has been designed to help reduce vehicle movements) is consistent with Council's planning policies and desired future character of Freshwater to have active shop frontages (G5 Freshwater Village controls). It should also be noted, that Freshwater's *only* General Practice 'Harbord Family Medical Centre' (Legal address: 25 Lawrence St, Freshwater) is located just meters away from the proposed development, raising additional safety concerns for the frail, elderly and sick children that would need to access its services regularly. Furthermore, in one recent Development Application of similar size and scale, the NSW Police as well as 45 objectors raised serious concerns and comments regarding a vehicle entry point from Lawrence Street.

Council should also consider a provision to allow vehicle access to the rear (north) of these developments via the Council managed southern carpark, rather than from Lawrence Street, would appear to be the most appropriate solution. By Council providing this access, the owners/developers of these sites should also be required to offset any loss of Council parking spaces within their developments. Also, there are unlikely to be engineering, gradient constraints limiting this access. For the reasons detailed above, this solution should be something that Council strongly considers and not turn away from:

2. Shortfall of neighbour notification (recommended re-notification)

Whilst this may not be a breach of the Environmental Planning and Assessment Act 1979 (NSW), Council's notification map for both Development Applications indicates a significantly reduced area (only those directly adjoining) in comparison to similar developments of this size, scale and cost value in Lawrence Street (see notification map for DA2011/1361 and DA2012/1235). Council should note that a recent Development Application (DA2010/1446) for the site, was ultimately refused by the Land and Environment Court attracted some 1,953 submissions all opposing the development. For instance, residents/ratepayers of Undercliff Road, Albert Street, Moore Road, Dowling Street, Oliver Street and those surrounding were not included in the formal notification for DA2017/1287 and DA2017/1294 (E.g. As a resident within 50 meters of the development I was not formally notified by Council). By Council not providing notification to these neighbours and the Manly Daily's being infrequently circulated to these properties, would result in Council not undertaking its

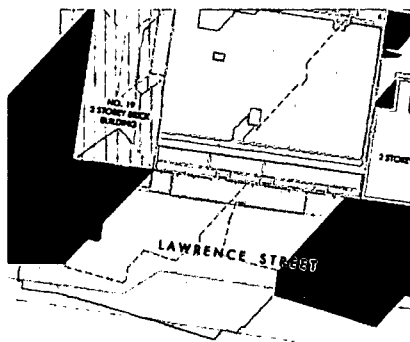
adopted policy responsibilities to provide likely impacted residents the opportunity to raise their objections to these complex developments. It is therefore recommended that Council extend and expand re-notification of these applications prior to undertaking their assessment.

3. Built form, concerns relating to overshadowing and proposed height

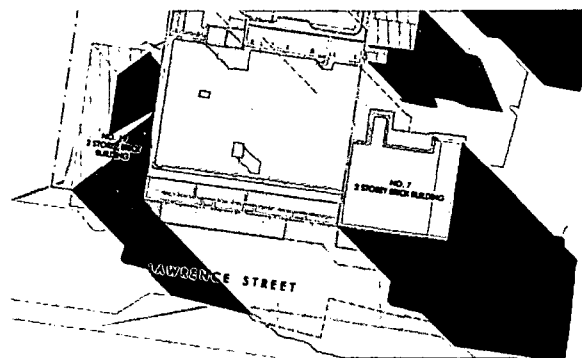
With both Development Applications DA2017/1287 and that neighbouring DA2017/1294, there are significant issues with non-compliant building height, overshadowing and streetscape. These developments are not compatible with the height and scale of surrounding and nearby development; given that the neighbouring buildings are one-two storey retail premises (Clause 4.1, Warringah LEP 2011).

The roof parapet (DA2017/1287) above apartment 12 should be considered as an unnecessary non-compliance and conditioned to be lowered. Reducing the height of the roof parapet may also allow the design to further accommodate the G5 Freshwater Village control requirement of a minimum flood to ceiling height of 3.3m for ground flood uses. Both DA2017/1287 and DA2017/1294 breach height limits in other areas including, but not limited to lift over-runs etc. It should be enforced by Council that such non-compliances be integrated internally into the design fabric of the built form, rather than unattractively projecting outside the statutory height limit.

As a consequence of these non-compliances, there are also going to be adverse impacts of over and additional shadowing (highlighted in yellow) on Lawrence Street and particularly on the southern pedestrian pathway (public open space). Both shadow diagrams supplied appear to cut-off the shadowing on the boarder to the plans rather than indicating a true depiction of its impacts. It should be noted that D6 Access to Sunlight of the Warringah LEP 2011, refers to the planning principal *The Benevolent Society v Waverley Council [2010] NSWLEC 1082*. This makes reference to "Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours".

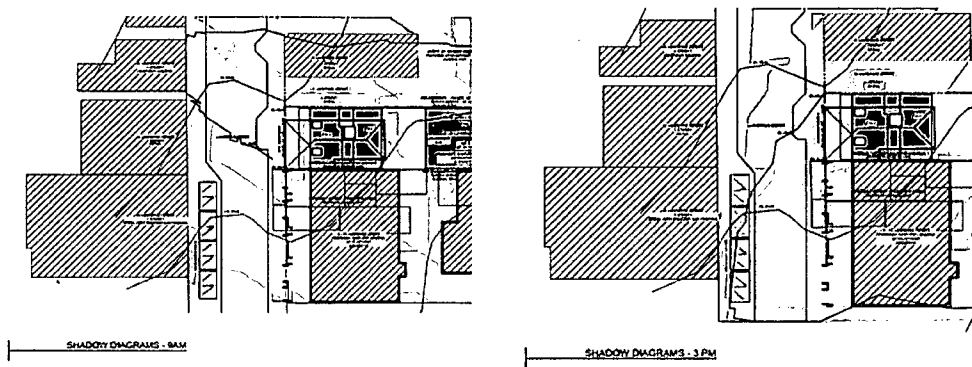


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Shadow Diagrams for DA2017/1294 (Netteton Tribe dated 12.12.17)



Shadow Diagrams for DA2017/1287 (Gartner Trovato dated 19.12.17)

The proposed height of buildings therefore unsuccessfully meets the Warringah Local Environmental Plan 2011. In my opinion, the Clause 4.6 variation fails to provide sufficient environmental planning justification for the variation to the building height to be supported and fails to demonstrate better environmental planning outcomes for the development. If the Clause 4.6 variation cannot be supported, there is no power to grant consent to the application

4. Residential proximity to electromagnetic field sources (Harbord Zone Substation No. 15008)

In the judgment of *Freshwater Village Developments Pty Ltd v Warringah Council (2011) NSWLEC 1127*, issues were raised by Council regarding the safety and proximity of residential units to the Harbord Zone (electricity) sub-station as well as the Telstra Telecommunications Tower. Necessary protection measures from electromagnetic radiation were also referenced in the judgment that ultimately saw the appeal made by the developer to be dismissed and application refused.

Studies have suggested that residential exposure to extremely low frequency (50 Hz) electromagnetic fields (ELF-EMF) from high voltage cables, overhead power lines, *electricity substations* or towers are associated with reduced birth weight and may be associated with adverse birth outcomes or even miscarriages. (Frank de Vocht, Brian Lee 2014)

Conclusion

Whilst the applications have their merits and have the potential for being suitable future developments for Freshwater Village, the DAs in their current form fail to provide compliance pursuant to controls outlined in Council's LEP and DCP. It is advised that the assessment of these application pay close attention to the issues that have been highlighted in this submission.

Yours sincerely,

A handwritten signature in black ink that reads "Chris Bull". The signature is written in a cursive style with a horizontal line underneath the name.

Christopher Bull

Resident of
Undercliff Road,
Freshwater