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To: DA Submission Mailbox
Subject: Online Submission

11/08/2022

MR craig key
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RE: DA2022/1128 - 38 The Drive FRESHWATER NSW 2096

11/08/2022
Craig Key 1 Seddon Hill Rd, Freshwater 2096

RE: DA2022/1128 -38 The Drive FRESHWATER NSW 2096

Attention: Stephanie Gelder

Please find here-in our submission with respect to the current Development Application for 38 The Drive Freshwater (DA2022/1128).

Our property, 1 Seddon Hill Road, sits directly south of the applicant's property.

The core elements of our multiple and strong objections to this project are covered in detail in the substantial submission being made to Council via this portal on our behalf by Mr Pierre Le Bas of Turnbull Planning consultants and this letter should be read together with Turnbull Planning's report on Council's website.

Whilst Mr Le Bas will provide a detailed analysis, a summary of our reasons for not supporting 38 The Drive's current application, together with additional context for Council to consider in relation to our objection to the proposal, are as follows:

1. Failure to accurately describe the work to be done. This is a full demolition and rebuild as opposed to a partial one.
2. Absolutely no discussion or consultation with us, or other neighbours (it seems), prior to lodging the current proposal.
3. Incompatibility with the existing surrounding dwellings.
4. Unacceptable visual impact of the proposed development from virtually any viewpoint one could have of the property.
5. Unacceptable bulk and scale.
6. Devastating impact on views from multiple existing properties.
7. Devastating overshadowing on multiple existing properties, including our new build.
8. Devastating overlooking and invasion of privacy on multiple existing dwellings, including on our new build.
9. Unacceptable excavation size and associated risks.
10. Minimal adjustment to the previously submitted application made by 38 The Drive in their previously withdrawn DA 2021/0472, which itself attracted multiple objections. There appears to be minimal consideration of the previously raised objections.
11. Incomprehensible view analysis generated using computer graphics and an arbitrary scale of view sharing, seemingly made up to justify loss of views from adjoining properties as supposedly acceptable. The report pays lip service to considering well established legal precedents with regard to view sharing in favour of this made up approach, and is very

selective and subjective with included content. Even with all this, the report confirms massive view loss for multiple residents of multiple iconic views. I am also unsure how Council could verify the methodology or the analysis results without going to incredible expense and engaging independent professional consultants.

12. A completely unacceptable and inadequate landscaping plan that raises far more questions than it answers concerning the applicants' landscaping intentions for their site.

In accordance with principles of responsible design and applicable Town Planning case law, all the above problems could be solved by a far more considered, sophisticated, thoughtful and sympathetic design.

We feel the number, size and seriousness of the objections are not something that can be simply "conditioned" away. It is our view that a total re-design is essential to address the significant objections and concerns raised by ourselves and multiple neighbours and members of the community related to this application.

Further to the above we would also like to draw Council's attention to some additional matters we consider relevant to this application.

Approximately eighteen months ago we lodged our own DA for approval for a new, two level residential build with a two car carport at 1 Seddon Hill Road. We participated in a pre-DA meeting with Council and took account of the concerns raised and suggestions in our lodged plan. My understanding is that the owners of 38 The Drive have not undertaken such a pre-meeting, for reasons unknown. Our own DA was assessed critically and diligently by Council and even very minor infractions were raised for us to correct. Additionally, we and/or the appropriate professional body like geotechnical engineers had discussions with any neighbours who had objected to elements of our proposal and those objections were very carefully considered and we made further amendments to our plan to accommodate the objections as much as possible. Our DA was approved with little fuss and the CC issued and we have commenced building our new home.

Shortly after we lodged our own DA, 38 The Drive lodged DA 2021/0472. This was done with no consultation with the community and without a Council pre-meeting, as far as I am aware. This DA, which incidentally proposed a 6 level, @500 square metre development on the site of 38 The Drive met with multiple community objections and was ultimately rejected, as described on Council's website:

"Status: Withdrawn

Determined: 27/09/2021 (Council Staff)"

An interesting factor was that even with regard to this earlier DA, Council as I understand it, informed 38 The Drive that the proposal was prima facie unacceptable given its major height, scale and other contraventions of Council's rules and guidelines. And in fact the height poles erected by the applicants on their site approximately a year ago at Council's request reflect a height that is already one level lower than was in their original DA, which as mentioned above was ultimately withdrawn as determined by Council staff. Therefore the current DA, if my understanding is correct, is actually little different to the one previously withdrawn.

Whereas it may seem that the new application is reducing height by one level, this is somewhat disingenuous, as why then would the erected height poles reflect an already lower level which was subsequently rejected/withdrawn. In fact, while the earlier application height level were in excess of 48%, the new application continues to exceeds height levels by 21%. These are huge numbers and deviations from the permitted limits, requiring exceptional exemptions. From our own very recent experience in the DA process the Council prefers even very minor infractions to be re-considered and rectified if at all reasonable to do so. For example, we were required to remove the inclusion of a lightweight pergola structure at ground floor level to accommodate a minimal impact on the side view of an adjoining apartment building. Similarly, we were required to reduce minimal overhang of eaves.

Furthermore, during our DA process, the Applicants, amongst other things, objected vehemently to a small balcony we had proposed at the northeast side of our two level property for what they considered to be potential overlooking and noise. Despite agreeing to the inclusion of additional screening, the Applicants insisted that this small balcony be removed. Unfortunately, removal of the balcony compromised the design integrity of our proposal and also interfered with the free flow of movement through our property (we now have no means of accessing the front balcony from our courtyard without walking through the living areas and it is not possible to clean the external surfaces of the windows that were abutting this balcony). However, we agreed even to amend this design feature at Council's request.

We are therefore extremely surprised to see the current DA proposing a five-level structure fully maintaining approximately two full upper two stories complete with full height and length banks of windows along the applicants southern boundary completely overlooking and overshadowing our new build. We trust that Council will consider this new DA with the same level of scrutiny and diligence as was applied to our own, far smaller and less invasive development.

As mentioned above, all the above problems presented by the current DA could be solved by a far more considered, sophisticated, thoughtful and sympathetic design allowing the applicants to retain and majorly enhance their already significant views, sun and privacy without selfishly seeking to maximise all these things solely to the benefit of the Applicants and completely at the expense of their neighbours and the wider community.