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To: DA Submission Mailbox
Subject: Online Submission

08/08/2022

MR James Chadwick
2 / 11 Lodge LANE
Freshwater NSW 2096
[REDACTED]

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

Dear Assessing Officer,

I am putting forward a submission against proceed with the Development Application on 38 The Drive Freshwater (DA2022/1128) on the grounds that:

A: there has been no consultation with neighbours who would be directly impacted since the original DA (DA2021/0472);

B. the DA should be submitted under the following category "New - Demolition works and construction of a dwelling house including a swimming pool" similar to the recent development application at 1 Seddon Hill (DA2021/0101) as this is not a partial demolition; and ultimately that

C. The DA has major non-compliance issues which I will detail below.

1. Non-compliance of building height, of 10.32m against 8.5m planning requirement. This represents a 21.4% non-compliance. Effectively, the whole top story of the development is therefore non-compliant. The 8.5m zoning is particularly important for all surrounding neighbours for a number of reasons, including solar access, enjoyment of views, enjoyment of breeze, enjoyment of privacy, building safety and susceptibility to landslide risk. To allow a non-compliant 5 floor development to be approved would be to the detriment of all neighbours and community alike.

Clearly, a community standard of height compliance is reasonable and necessary and has been put in place for a good reason.

The Appendix 1 Clause 4.6 Report which was attached to the DA fails to explain why a non-compliant building is reasonable for surrounding neighbours or in the public interest. It is also factually inaccurate and nonsensical in a number of its arguments:

-It claims a maximum height of 3 stories which is false - the maximum height is 5 stories as shown in the Masterplan. The view from the street will also look like 5 stories and will be 1 storey taller in bulk and scale than surrounding dwellings - consistent with the 1 story height breach.

-the report claims that it is commensurate to 36 The Drive (I believe is 4 stories) and 40 The Drive (I believe 4 stories) which is not commensurate to 5 stories under the proposed DA. The

maximum elevation of these surrounding dwellings also sit well below the proposed DA maximum elevation and therefore do not restrict views to western neighbours in the same way that the proposed DA would.

-Fig 5 is misleading as it does not show the proposed DA (5 stories) which would overwhelm and eclipse surrounding dwellings heights. It would also have an adverse impact on the scenic quality of Warringah's coastal and bush environments enjoyed from the street and from the coastal boardwalk at Curl Curl which is currently showcased in the Freshwater Masterplan recently released by council.

-Under "disruption of views" the report claims impacts to views are "reasonably minimised". Per the View Impact statement (viewpoint no. 15) 83% of ocean views currently enjoyed by 8 dwellings on the common balcony at 11 Lodge lane would be extinguished which is not reasonable.

-Language used like "lightweight" front decks does not reflect the actual DA and makes me question the validity of the report - it reads like a boilerplate template that is contradictory to the Master Set. The claim that the height does "not attribute to excessive bulk and scale" is also contradictory. The height non-compliance is greater than 20% - this is excessive and bulky. "Generous side setbacks" also contradicts the masterplan (the side boundary envelope is in fact non-compliant) and the pool set back is only 1m from the clothesline at 11 Lodge lane - "generous" is not accurate language. Greater than 20% non-compliance is also not a "minor breach" - it is major.

-A "high quality family home" does not reflect the master plan. The master plan looks like an excessive, bulky resort/air bnb party house not a "family home".

The Statement of Environmental Effects has similar inaccuracies and inconsistencies. For example, page 15 mentions 4 levels in the primary dwelling, plus a secondary dwelling level above the garage, plus a garage level, which adds to 6 levels. This contradicts the "2-3 storey appearance" claim per the Clause 4.6 report.

All of the above diminishes the credibility of the reports presented in the proposed DA.

In addition to height non-compliance, the building is also non-compliant in relation to wall height standard (exceeded by 1.5m) and non-compliant in relation to the side boundary envelope. The statement that this "will not unreasonably impact the solar access and privacy provided to adjoining properties" is not correct - the common area at 11 Lodge Lane would be looked into directly and will negatively impact the daily lives of those that currently enjoy this area's privacy due to current standards in place.

2. Non-compliance of rear boundary set back to the pool. I believe 1.8m pool excavation exceeds the 1.5m setback required for depths 1m to 2m which was not noted in the DA. The pool sits only 1m from 11 Lodge Lane's only clothes lines and is 2m away from Unit 5 and Unit 1 bedroom windows which is a noise and privacy concern for existing residents. I am also concerned that the excavation work would pose a safety risk and jeopardise the structural integrity of surrounding dwellings given that the site sits on shared sandstone steps. Per the Geotechnical report, vibrations would represent a Hazard Two level risk which is "unacceptable risk" and would cause "moderate" risk to property. What assurances can be provided by council if properties are damaged in carrying out works with this level of risk? If the DA is approved by council, does council wear some of the responsibility? The Geotechnical report fails to provide any assurance in the event that property damage is caused.

3. Side setback to 11 Lodge Lane communal area has not been considered. It is 11 Lodge Lane's only communal area which would be overlooked under this DA. The envelop is non compliant in this location.

4. Hazard 2 "unacceptable risk" vibrations outlined in the geotechnical investigation will put surrounding properties at risk which is compounded by building height and boundary non-compliance. I also have safety concerns in regards to this.

5. Impact to view, natural ventilation and solar access to neighbouring residents due to building height non-compliance. 11 Lodge Lane's view to the east is diminished by 83% which is completely unreasonable. 11 Lodge Lane currently has ocean views to the east from a common balcony. Impact to solar access to western and southern properties is also not minor due to building height.

6. Landscaped area does not retain existing vegetation, due to plans to put in a pool with non-compliant set-back. The plans for a green roof also does not represent a lasting landscaped area.

7. Setting precedent in the area for further relaxation of similar planning guidelines based on challenging topography.

Given the above I do not believe the DA is in the best interests of the public or all surrounding neighbours. Whilst the height to the building with setbacks to the second floor and third floor and natural slope of the site may reduce the impact to the streetscape and view from The Drive, this does not mitigate the impact to residents to the west or neighbouring residents to both sides of the property and should be further considered. The development is non-compliant by 21.4% on the height planning requirement alone; not a minor encroachment, and 83% of ocean views at 11 Lodge Lane will be extinguished. Whilst the site may be challenging regarding slope this would still be granting one additional level of development on the basis of unfavourable development conditions.

Again, I trust council will take this submission against this Development Application with consideration for the existing residents, community and for the integrity of the planning scheme and compliances that are in place.

Kind regards
James