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| <b>DATE OF DETERMINATION</b>    | Wednesday 18 December 2018                                                   |
| <b>PANEL MEMBERS</b>            | Peter Debnam (Chair), Sue Francis, John Roseth, Annelise Tuor, Steve Kennedy |
| <b>APOLOGIES</b>                | None                                                                         |
| <b>DECLARATIONS OF INTEREST</b> | None                                                                         |

Public meeting held at Dee Why Town Hall 1 Belgrave Street Manly on 18 December 2018, opened at 1.30pm and closed at 3.35pm.

#### **MATTER DETERMINED**

2018SNH042 – Northern Beaches – DA2018/1166 at 11 May Road and 613-615 Pittwater Road Dee Why (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel was asked by the Applicant to defer determination as they were preparing amended plans to address Council and community concerns. However, the Panel considers changes required to address the following fundamental concerns would be so substantial that there would be no point in deferring the application.

1. The Proposed Development is an overdevelopment of the site due to its density, height and the lack of landscaping on a steeply sloping site.
2. The Proposed Development is not consistent with the requirements for a Boarding House in Division 3 of SEPP (ARH) 2009.
3. The design of the development is not compatible with the existing and desired future character of the local area and is therefore not consistent with Clause 30a of SEPP (ARH) 2009.
4. The development is not consistent with the requirement of Clause 29 of SEPP (ARH) 2009 in relation to building height, landscape area and solar access provisions.
5. The proposed building height does not comply with Clause 4.3 Height of Building Development Standard of the Warringah LEP 2011 and the contravention of the development standard is not justified under Clause 4.6. In particular:
  - a. The proposed variation does not satisfy the objectives of the standard nor of the objectives of the zone and is therefore not in the public interest; and

- b. The written request seeking to justify contravention of the development standard under Clause 4.6 WLEP 2011 does not demonstrate that compliance with the standard is unreasonable or unnecessary and does not provide sufficient environmental planning grounds to justify the variation.
6. The application fails to demonstrate how the proposed development will provide a reasonable standard of amenity for the occupants with respect to landscaped area, access, communal activity and social interaction.

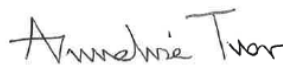
Accordingly, the Panel unanimously resolved to refuse the application.

#### **CONDITIONS**

Not applicable.

#### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered 68 written submissions made during public exhibition and heard from one objector at the public meeting. The issues for which the Panel refused the application were mentioned in most of those objections.

| PANEL MEMBERS                                                                                             |                                                                                                       |
|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| <br>Peter Debnam (Chair) | <br>Sue Francis      |
| <br>John Roseth        | <br>Annelise Tuor |
| <br>Steve Kennedy      |                                                                                                       |

| SCHEDULE 1 |                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------|-------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1          | PANEL REF – LGA – DA NO.                              | 2018SNH042 – Northern Beaches – DA2018/1166                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 2          | PROPOSED DEVELOPMENT                                  | Demolition Works and Construction of a Boarding House development made pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 3          | STREET ADDRESS                                        | Lot A DP 400997, 613 Pittwater Road, Lot 8 DP 22384, 615 Pittwater Road, and Lot 2 DP 22384, 11 May Road, Dee Why                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4          | APPLICANT/OWNER                                       | Applicant - Leech Harmon Architects<br>Owner - Adam Jon Tesoriero                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 5          | TYPE OF REGIONAL DEVELOPMENT                          | Private infrastructure and community facilities over \$5 million                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 6          | RELEVANT MANDATORY CONSIDERATIONS                     | <ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No.55 – Remediation of Land</li> <li>State Environmental Planning Policy (Building Sustainability Index BASIX)</li> <li>State Environmental Planning Policy – Infrastructure 2011</li> <li>State Environmental Planning Policy (Affordable Rental Housing) 2009</li> <li>Warringah Local Environmental Plan 2011</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Warringah Development Control Plan 2011</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul> |
| 7          | MATERIAL CONSIDERED BY THE PANEL                      | <ul style="list-style-type: none"> <li>Council assessment report: 6 December 2018</li> <li>Written submissions during public exhibition: 68</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In objection –Stuart Herring, Peter Dobrich, Alix Parker, Kerrie Smiles</li> <li>On behalf of the applicant – Dennis Leech, Matthew Benson</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>Site inspection and briefing: 17 October 2018</li> <li>Final briefing to discuss council's recommendation, 18 December 2018 at 12.15. Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Peter Debnam (Chair), Sue Francis, John Roseth, Annelise Tuor, Steve Kennedy</li> <li><u>Council assessment staff</u>: Lashta Haidari, Anna Williams</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 9          | COUNCIL RECOMMENDATION                                | Refusal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 10         | DRAFT CONDITIONS                                      | Attached to the council assessment report                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |