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Subject: Online Submission

17/05/2021

MRS Bessie Dobrich
- 13 May RD
Dee Why NSW 2099
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RE: Mod2021/0226 - 615 Pittwater Road DEE WHY NSW 2099

Mrs B Dobrich
13 May Road, Dee Why NSW 2099

17 May 2021

I am writing to object to the Modification of Land & Environment Court Issued Consent Proceedings 2018/289481 - DA 2018/1166
11 May Road, Dee Why

The initial proposal was met by over 100 Submissions against the development and strongly opposed by local residents.
Council also objected to the proposal.

Objection 1:

This new Modification is a substantial variation from the Court approved Consent for 80 boarding rooms in that it reduces the total number of parking spaces from 47 to 27.
The Modification cannot be said to be "substantially the same development " for the purposes of Section 4.56 of the Environment Planning and Assessment Act.

Objection 2:

The Applicant firstly relies on Stavrides v Canada Bay Council [2007] NSWLEC 248, but that case did not deal with "Carparking required under SEEP ARH" and associated traffic issues.
The Modification proposed there was only to minor works described as:

- correct the position of a wall return in the part of the dwelling which was to be retained on the site; and
- seek approval for the demolition and reconstruction of several masonry walls in the part of the dwelling, which were to be retained.

Objection 3:

The Applicant secondly relies on Williamson v Northern Beaches Council [2020] NSWLEC 1110. That development was for a much smaller 28 room boarding house with 11 parking spaces (where 15 parking spaces were required under SEPP ARH) (ie approximately ONLY one-third the size of this boarding house),. A reduction of only 4 carparking spaces was sought there. Paragraph 72 of the Decision noted:

72. Clause 29(2)(e) of the SEPP ARH is in the form of a must not refuse provision in relation to boarding house development where, at (iia), in the case of development not carried out by or on behalf of a social housing provider at least 0.5 parking spaces are provided for each boarding room.

The Modification here is one of a reduction of "20 car parking spaces", from 47 to 27 as sought

here. The level of magnitude is far greater and cannot be said to be "substantially the same development".

The Applicant seeks to greatly extend and stretch to the extreme the scope of the leeway given to Williamson in that earlier case by raising an undefined potential carpooling arrangement in this Modification.

In Williamson the carpooling was for 1 space only and set forth in great detail for internal users only. The Williamson Case Decision, which is clearly limited to the "particular circumstances of that proposal" notes, inter alia:

92. While carshare vehicles are commonly available to a wide pool of users, or subscribers, at on-street locations, Section 17 of the proposed Plan of Management (Exhibit G) sets out the carshare vehicle is to be for the exclusive use of building occupants, and is to be provided, maintained, insured and operated by the building management and be available 24 hours a day via an online booking platform, for which building management is responsible.

Findings

93. I am satisfied that in the particular circumstances of this proposal, a carshare vehicle operated under the terms outlined at [89] would make a reasonable contribution towards ensuring the proposed development provides parking that is adequate. In particular as it is proposed to be privately operated by building management, and reserved for the exclusive use of the occupants of the boarding house, the pool of likely users is limited to those with familiarity of the carshare arrangement and with a sense of shared interest in its operation.

Objection 4:

The Modification will result in increased parking spaces being sought on May Road, especially in a situation where Council has proposed to remove carparking on the northern side of May Road.

Council is requested to uphold these objections and refuse the Modification.