

AGENDA

NORTHERN BEACHES LOCAL PLANNING PANEL MEETING

Notice is hereby given that a Meeting of the Northern Beaches Local Planning Panel will be held in the via teleconference on

WEDNESDAY 2 SEPTEMBER 2020

Beginning at 1.00pm for the purpose of considering and determining matters included in this agenda.



Peter Robinson
Executive Manager Development Assessment

Panel Members

Paul Vergotis	Chair
Marcus Sainsbury	Environmental Expert
Brian Kirk	Town Planner
Ray Mathieson	Community Representative

Quorum

A quorum is three Panel members

Conflict of Interest

Any Panel Member who has a conflict of Interest must not be present at the site inspection and leave the Chamber during any discussion of the relevant Item and must not take part in any discussion or voting of this Item.

**Agenda for a Meeting of the Northern Beaches Local Planning Panel
to be held on Wednesday 2 September 2020
Commencing at 1.00pm**

1.0	APOLOGIES & DECLARATIONS OF INTEREST	
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2.0 MINUTES OF PREVIOUS MEETING

2.1 MINUTES OF NORTHERN BEACHES LOCAL PLANNING PANEL HELD 19 AUGUST 2020

RECOMMENDATION

That the Panel note that the Minutes of the Northern Beaches Local Planning Panel held 19 August 2020 were adopted by the Chairperson and have been posted on Council's website.

3.0 DEVELOPMENT APPLICATIONS

ITEM 3.1	DA2020/0205 - 18 ALEXANDER STREET, COLLAROY - PART DEMOLITION WORKS AND CONSTRUCTION OF BOARDING HOUSE WITH ASSOCIATED CARPARKING AND LANDSCAPING
AUTHORISING MANAGER	STEVE FINDLAY
TRIM FILE REF	2020/499066
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0205 for part demolition works and construction of Boarding House with associated carparking and landscaping at Lot 9 DP 6984, 18 Alexander Street, Collaroy for the reasons set out in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0205
Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot 9 DP 6984, 18 Alexander Street COLLAROY NSW 2097
Proposed Development:	Part Demolition works and construction of Boarding House with associated carparking and Landscaping
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Simone Victoria Waights
Applicant:	Brendan Andrew Waights
Application Lodged:	03/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	14/03/2020 to 04/04/2020
Advertised:	14/03/2020
Submissions Received:	21
Clause 4.6 Variation:	Nil
Recommendation:	Refusal
Estimated Cost of Works:	\$ 705,000.00

EXECUTIVE SUMMARY

The proposed development includes demolition of all structures on the site and construction of a three (3) storey boarding house containing then (10) boarding rooms and an on-site Managers residence with basement parking for six (6) cars.

The public exhibition of the development resulted in twenty one (21) submissions, all objecting to the proposal and raising concerns relating to amenity (noise and privacy), traffic and parking, character, density, height (number of storeys), tree removal and compliance with relevant legislation. These concerns have been addressed within this report and provide the basis for certain matters that warrant the refusal of the application.

The assessment of the application has found that the proposal cannot be supported, as it fails to



comply with a number of planning controls; including, the side boundary envelope, side setback, rear setback and landscape open space.

The application is currently the subject of a Class 1 Appeal in the NSW Land and Environment Court.

It is also relevant to note that the adjoining lot 8 that forms part of this site has a separate application which is following the same path as this current application for a second boarding house of similar bulk and scale. The implications of both lots being developed for this purpose while individually considered on their merit should also be considered in terms of the consolidated impacts on the surrounding neighbourhood.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal does not satisfy the appropriate controls.

Accordingly, it is recommended that the NBLPP, as the determining authority, refuse the application for the reasons detailed within the recommendation section of this report, and any amendments to those reasons, which will constitute the contentions in the defence of the Court Appeal.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for demolition of the existing structures, excluding the swimming pool on the site and construction of a two (2) and three (3) storey, split level boarding house containing ten (10) double rooms, a manager's room and basement/undercroft parking.

The application also includes earthworks and excavation, associated civil infrastructure, including on-site stormwater detention, anew driveway offset to the eastern side of the front boundary and site landscaping.

The boarding house comprises the following:

Basement/Undercroft Level (RL 10.720)

- Six (6) parking spaces including one (1) manager's space and one (1) accessible space
- Two (2) motorbike parking spaces
- Three (3) wall mounted bicycle parking
- Garbage bin storage for 7 bins
- Ten (10) individual storage areas

Level 1 (RL 13.130)

- Rooms 1, 2, 3, 4 and 5
- Manager's residence with private bathroom and kitchen facilities
- Communal Common Room (11.7m²)



- Common Open Space terrace (45.9m²)

Level 2 (RL 16.060)

- Rooms 6, 7, 8, 9 and 10

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C4 Stormwater
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - D14 Site Facilities
 Warringah Development Control Plan - D20 Safety and Security

SITE DESCRIPTION

Property Description:	Lot 9 DP 6984 , 18 Alexander Street COLLAROY NSW 2097
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Detailed Site Description:

The site is legally identified as Lot 9 DP 6984, and is known as 18 Alexander Street, Collaroy.

The site currently contains a two (2) to three (3) storey brick dwelling house which straddles Lot 8 and Lot 9 of DP 6984 with a detached single storey timber clad shed located on the boundary between Lot 8 and Lot 9 and a swimming pool located at the rear of the existing dwelling.

Vehicular access to and from the site is available via a single driveway crossing.

The site is regular in shape with a frontage of 12.20m accessing onto Alexander Street and a depth of 46.895m. The site has a surveyed area of 574.8m².

The site has a fall from the rear southern boundary to the front of the site of approximately 5.52m (11.8%).

Surrounding and adjoining development within Alexander Street is predominantly one and two storey residential dwelling houses some of which provide parking below where the sites becomes steeper in topography further west along Alexander Street. The site is zoned R2 Low Density Residential and is 108m along the southern side of Alexander Street from the commercially zoned properties fronting Pittwater Road and Collaroy Beach and approximately 42m diagonally to the rear of the commercial properties along the northern side of Alexander Street.

Map:



SITE HISTORY



A search of Council's records has revealed the following relevant history:

Development Application No. DA2015/081

Alterations and additions to a dwelling house and construction of front and side fencing - Approved 12/10/2015.

Development Application No. DA2019/0306

Boundary adjustment, part demolition for alterations and additions to a dwelling house, construction of a detached dwelling house and a Secondary dwelling - Refused 09/12/2019

Review of Determination REV2020/0001

This application was a review of determination DA2019/0306 for a boundary adjustment, demolition works, alterations and additions to a dwelling house and construction of a secondary dwelling. The application was approved on 24 April 2020.

Development Application No. DA2020/0205

DA2020/0205 for demolition works and construction of a ten (10) room boarding house with a 'Managers Room' was lodged with Council on 4 March 2020.

The development application was referred to Council's Development Engineer, Building Surveyor and Assessment Team (Fire and Disability), Environmental Health, Landscape Architect, Urban Design, Traffic Engineer and Waste.

The application was notified and advertised for a period of 21 days from 10 March 2020 to 4 April 2020 in accordance with Northern Beaches Community Participation Plan.

On 15 May 2020, the Applicant commenced Class 1 proceedings in the Land and Environment Court appealing Council's deemed refusal of the development application.

This application is the subject of this assessment.

There was no pre-lodgement advice sought in relation to this development.

Development Application No. DA2020/0261

DA2020/0261 for construction of a boarding house with twelve (12) double rooms and a Manager's residence was lodged with Council on 16 March 2020. This application is proposed on Lot 8 and is being assessed concurrently with the application on Lot 9.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended

Section 4.15 Matters for Consideration'	Comments
	<p>period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.</p> <p>Draft State Environmental Planning Policy Housing Diversity seeks to consolidate SEPP (Housing for Seniors and People with a Disability) 2004, SEPP (Affordable Rental Housing) 2009 and SEPP 70 (Affordable Housing (Revised Schemes)) to help facilitate housing projects that will stimulate the economic recovery, establish planning pathways to support 'Build-to-rent' (BTR) housing and amend planning provisions relating to boarding houses and seniors housing development. The Explanation of Intended Effect is on exhibition until 9 September 2020. This legislation is early in the consultation process, accordingly, no further consideration is required for this application.</p>
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter may be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue</p>

Section 4.15 Matters for Consideration'	Comments
	of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. Insufficient information has been provided in relation to the impact of the development on overland flow.</p> <p>(ii) Social Impact The use of the development as a boarding house will not in itself result in a detrimental social impact given boarding houses are a permissible land use within the zone and locality and the residents of the boarding house would be required to reside there in accordance with an adopted Operational Plan of Management and their lease agreements. Overall, in terms of social impact, the proposal will not have a detrimental impact.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development given the intensity of the proposal. The building form and scale is considered an over-development of the site and is inconsistent with the character of the locality.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the Side Boundary Setbacks, Side Boundary Envelope, Landscaped Open Space, Private Open Space and Privacy and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 14/03/2020 to 04/04/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.



As a result of the public exhibition process council is in receipt of 21 submission/s from:

Name:	Address:
Ms Jill Pioch	56 Alexander Street COLLAROY NSW 2097
Mr Niall Alastair Lindsay Johnston	11 Alexander Street COLLAROY NSW 2097
Karen Eileen Rolls	30 Alexander Street COLLAROY NSW 2097
Mr Bruce Davison Mrs Wendy May Davison	15 Alexander Street COLLAROY NSW 2097
Denis Anthony Watchorn	36 Alexander Street COLLAROY NSW 2097
Fran Dargaville	Address Unknown
David William Rolls	30 Alexander Street COLLAROY NSW 2097
Mr Richard Charles Downer	38 Alexander Street COLLAROY NSW 2097
Mr William John Boon	48 Alexander Street COLLAROY NSW 2097
Susannah Lee Barry	12 Alexander Street COLLAROY NSW 2097
Frances Anne Murphy	13 Alexander Street COLLAROY NSW 2097
Mrs Tiga Joan Wallman	11 Alexander Street COLLAROY NSW 2097
Mr Neville Alan Wayne Osborne	54 Alexander Street COLLAROY NSW 2097
Ms Bly Carpenter	14 Alexander Street COLLAROY NSW 2097
Andreas Lehr	20 Alexander Street COLLAROY NSW 2097
Mrs Christine Marie Pavitt	16 Alexander Street COLLAROY NSW 2097
Mr Ian Bruce Sanders	17 Alexander Street COLLAROY NSW 2097
Mrs Kristie Anne Hutton	19 Alexander Street COLLAROY NSW 2097
Mr Paul Robert Peill Hutton	19 Alexander Street COLLAROY NSW 2097
Mr Stephen Christopher Jones	50 Collaroy Street COLLAROY NSW 2097
Mrs Barbara Mary Clarke	40 Alexander Street COLLAROY NSW 2097

The following issues were raised in the submissions:

- *Amenity impacts in terms of noise and privacy;*
- *Traffic and parking;*
- *Location and character;*
- *Safety concerns;*
- *Density and Site Coverage, overdevelopment of the site;*
- *Wall Height, Side Boundary Setback, and Envelope;*
- *Permissibility and precedent;*
- *Consolidated impact from the adjacent lot boarding house development*
- *Financial impact on surrounding property prices;*
- *Tree Removal and impact on local biodiversity;*
- *Community Benefit and Use of Affordable Housing as short term holiday accommodation;*
- *Accessibility of development;*
- *Stormwater and Overland Flow*



The matters raised within the submissions are addressed as follows:

- **Amenity Impact - Noise and Privacy**

The proposed common area and balcony look directly over properties such as 9, 11, 13 and 15 Alexander street. The usage, elevation and sound projection from these areas will result in reduced amenity and privacy for these and other neighbouring properties and is inadequately addressed in proponent's reports such as the facilities proposed management plan.

Comment:

Noise and privacy impacts generally are a concern with any boarding house due to the short term nature of the tenancies and will depend to a large extent on how robust and well applied the Operational Management Plan for the premises is.

Alexander Street is a very narrow road which makes the inclusion of communal open space in an elevated position with the potential to accommodate twenty (20) residents at one time at the front of the development directly facing numerous residential dwellings a significant concern in terms of the suitability of this type of activity in this location. The use of this space in this location is considered likely to result in detrimental adverse impacts on the adjoining properties and is not supported.

- **Traffic and Parking**

Proposal has inadequate parking.

Currently street parking along Alexander St from approx. outside No. 10 to No. 22 at most times of the day and night has cars parked on both sides of the street. If a boarding house was to be developed at No. 18 there would most likely be an additional 5 to 10 cars for each boarding house resulting in an additional 10 - 20 cars parked on the street. These extra cars would take up any available street parking further up the street and would impact on available street parking for residents and the community who park in Alexander St to go to the beach, shops, restaurants, and park in the street to catch the B1 bus line in Collaroy.

The street is one of the steepest in Sydney and is very narrow. There are cars parked on the street from approx. No. 10 to No. 22 most times of the day and night and as a result, traffic cannot pass in a 2-way direction. Instead, cars must pull over and wait either at the bottom or top of Alexander Street or in driveways to allow 1-way traffic to pass. If more cars are parked in the street as a result of this development it will impact on traffic congestion, safety issues, frustration, and anger for residents and drivers. This will have a detrimental effect to the use of amenities at Collaroy shops, the beach, and residents of Alexander Street.

Traffic management on the street is already poor as Council and Northern Beaches Local Area Police command are no doubt aware with numerous major traffic incidents due in part to the narrow carriageway, steep incline as the street rises to the west and speeding traffic which already make ingress and egress to existing driveways hazardous. The consultant's report "Traffic and Parking Assessment" is also incorrect stating that there are existing speed humps - there are no raised humps in Alexander street only painted markings which would be better described as passive traffic calming devices.

On bin collection days the garbage trucks hold up traffic in the street as no cars can pass either way mostly in the stretch of road outside No. 10 to No. 22 where most of the time cars are parked on both sides of the street. If there were to be an additional 10 - 20 cars parked on the street, longer traffic delays and congestion would occur and could affect traffic flow on Pittwater Road causing frustration, and anger to drivers and residents.



The traffic and parking issues and the issues of 30 residents in such a small local. it is a narrow street and recently when a truck lost control 11 cars were damaged, presently there are more and more incidents of road rage in this street.

Car, Bicycle, and Motor Bike spaces - The car, bicycle and motor bike spaces look very narrow on the plans and they adequate for their use.

Comment:

While the development provides adequate parking in accordance with the requirements of SEPP (ARH) in the form of six (6) spaces (which includes a disabled parking space) and no visitor parking, it is understandable that concerns relating to parking have been raised in nearly every submission, given how congested Alexander Street is in relation to on-street parking for most times of the day. Further, there is no allowance in SEPP ARH in relation to rooms with two (2) occupants, usually adults. The required parking rate is set per room. This development has the potential to accommodate twenty-one (21) adults who likely all own vehicles. An equivalent apartment building with 10 x one bedroom or studio units would require twelve (12) parking spaces (including 2 visitor spaces). As the development complies with the requirements of SEPP ARH in this regard and in relation to motorcycle and bicycle storage, this issue cannot form a reason for refusal.

While traffic generation has been assessed against the relevant guidelines as acceptable, issues have been raised by Council's Traffic Engineer in relation to site access and sight lines which have been deemed unacceptable. These issues are considered fundamental flaws in the proposal and do form a reason for refusal.

Issues with garbage collection trucks are noted. While the development will likely result in greater vehicular movements and even on-street parking given the tendencies for these establishments to charge extra for on-site parking, the issue with the garbage collection trucks is a matter beyond the scope of this assessment and requires a more specific assessment by Council's traffic section to establish whether changes to the parking within Alexander Street requires further restriction on bin day to prevent a full blockage of the street.

- **Location and Character**

Comment:

The proposed development for a boarding house is permissible within the R2 Low Density Residential Zone pursuant to WLEP 2011 and also pursuant to SEPP ARH. There are no exclusions applied to the location of boarding houses in areas where this form of development is permissible. Notwithstanding, these developments are required pursuant to Clause 30A of the SEPP to provide a design which is compatible with the character of the local area. In this case, the distinct character is identified as low density residential dwellings in landscaped settings consistent with WLEP 2011 and WDCP.

The proposed development with inadequate setbacks will result in an intensity of built form which is inconsistent with the controls shaping the future character of the area, and is considered an over-development of the site. The proposal results in significant non-compliances with a number of controls which are addressed separately. These include side boundary envelope, wall height, and landscaped open space. The proposal is therefore found to be inconsistent with the surrounding residential character as it does not favourably relate to the design requirements and is considered to exhibit excessive building bulk and site coverage which does not protect the amenity of adjoining developments or the streetscape.



- **Safety Concerns**

The manager's room is at the back of the property, so he/she will be unable to perform his/her duties of keeping an eye on who enters the property. Also will not be easily found for queries or concerns from neighbours.

Comment:

Issues relating to the appropriate design of the development and the potential impacts on surrounding properties are discussed throughout this report. The location of the Manager's Room is not considered acceptable.

- **Density and Site Coverage, Overdevelopment of the Site, Bulk and Scale**

The current DCP for the area indicates that 40% is required and there appears to be limited justification as to why this non-compliance is acceptable.

The scale of the development is very large proportional to site size and is not in keeping with the existing houses in the street nor the residential low density built form and extensive garden areas of properties proximal to this proposed commercial boarding house. The applicant's consultant report "Statement of Environmental Effects Lot 9, 18 Alexander Street" states that the proposed development would be in harmony with the building around it and the physical impacts on surrounding developments is compatible. We contest these statements as this is a commercial, high density residential development incompatible with the surrounding single family, private dwellings.

The proposed boarding house developments appear excessive in bulk and scale, and are not in keeping with the existing modest residential character of development along Alexander Street. We therefore request that the development be revised to comply with Council's building envelope control.

Comment:

While the SEPP ARH provides for a maximum of twelve (12) boarding rooms on an individual site within the R2 low density residential zone, developments are also required to rely on the relevant LEP and DCP in order to inform an appropriate built form. The development results in a number of non-compliances with the built form controls including side boundary setback, landscaped open space and building envelope which are all controls that seek to manage building scale and appropriateness. Due to the development's non-compliance with these controls, the proposal is considered an overdevelopment of the site. This issue forms a reason for refusal.

- **Wall Height, Side Boundaries and Envelope**

Side Boundaries are also not compliant which impacts on neighbouring properties and sets a precedent for future development if approved.

The plans submitted and note that several nearby properties have been represented as 2 and 3 storey dwellings which is not the case. They are single storey dwellings with a garage underneath. I would suggest the plans are misleading

Comment:

Non-compliance with the relevant built form controls has been addressed within this report. The proposal is considered unacceptable in terms of its bulk and scale resulting from non-compliance with these relevant requirements.



- **Permissibility and Precedent**

If this boarding house is approved it will set a precedent such as for the adjacent Lot which is also proposed to be developed as a boarding house of similar scale. To all intents it is a backdoor strategy to get high density, commercial developments in a low density, residential zoned area. Both proposals should be considered together as it is the cumulative effects rather than the individual impacts from one development that the local community will be subjected to, noting also that is the same developer for both proposals.

Comment:

As detailed within this report, boarding houses are a permissible form of development in this location. The scale of the development is considered unacceptable in the context of the site and the developments' inconsistency with the relevant built form controls results in an undesirable form of development.

- **Consolidated Impact from the adjacent Boarding House development**

All issues identified are compounded by the proposal for a second boarding house on the adjacent block.

The development plans are also misleading as they have been submitted separately and do not show the sheer scale of the combined dwellings

Comment:

While the subject development has been lodged as a separate application to the adjoining Lot 8, which also proposes a boarding house containing twelve (12) rooms, the potential impact of two (2) boarding houses within such close proximity does cause concern in relation to the impact on the character of the area and also the consolidated or cumulative impact from two developments, which when combined would have the capacity to accommodate 22 boarding rooms (up to 44 occupants) with an additional 2 rooms for Managers accommodation.

- **Financial Impact on surrounding Property Prices**

Buyers who want to live in a R2 low density zone, don't want to share that with one property that holds maximum 30 people/tenants.

Comment:

Property values are not a relevant consideration under Section 4.15 of the EP & A Act, 1979

- **Community Benefit and Use of Affordable Housing as short term holiday accommodation**

There is an apartment block at 1161-1171 Pittwater Road, Collaroy "Bellagio by The Sea" that was approved for short term rental accommodation (minimum 3 months) a few years ago, much like the rules of short-term rental for boarding houses. However, these apartments are now advertised for holiday lettings and available for minimum 1-night stays, creating noise from holiday makers and disruption to other residents. I am concerned that the proposed boarding houses should they be poorly managed could become holiday lettings or used for other renters other than new generation tenants and cause negative detrimental impacts to the residents in Collaroy. This has happened with the Bellagio apartments and as a comparable situation could happen to the proposed boarding houses also

Comment:



A variety of persons are likely to reside in the boarding house and for a variety of reasons. The occupants will most likely represent a cross section of the community. There is no evidence to suggest that boarding house residents will be more likely to be responsible for adverse social impacts in the area.

Further, were the application to be approved, an Operational Plan of Management (PoM) for the boarding house would form part of the consent. This PoM would address residents behaviour (including smoking, noise, visitors, occupancy of boarding rooms, use of outdoor areas, drugs and alcohol) and require compliance with the 'House Rules' to ensure the amenity and safety of the neighbourhood is not adversely impacted.

In the event that resident behaviour disturbs local amenity or raises safety concerns, the Boarding House Manager would be responsible for implementing the PoM and addressing compliance with the House Rules in accordance with their lease agreement. Beyond this, it would be appropriate for the Police to be notified.

Boarding houses are designed for minimum three (3) month stays and are not backpacker or hostel accommodation. A minimum three month stay can be enforced as a condition of consent should the application be approved but is implied by any approval for a Boarding House pursuant to SEPP ARH. All of these rooms are able to accommodate two people. The total maximum occupancy would be twenty (20) boarding residents and up to two (2) people in the on-site managers unit. There is no ability for the boarding rooms to contain any more beds than those approved.

- **Accessibility of Development.**

Disabled Car Parking - there is provision for a disabled car space, however, how do people with disability access the boarding house that is accessed only by stairs. Disabled access to use the pool - How will people with disability access the pool.

Comment:

The parking level provides a stair platform lift which would require the user to exit the site via the driveway which does not provide any protected access and re-enter the site from the eastern boundary. Once at Level 1, the occupant will not be able to access the rear pool area of the site as the access path contains stairs which would prevent this. The accessible access to the development has not been well resolved and is considered flawed in its design directing any person who would need the stair lift into the driveway access and out into the public domain to access the building.

- **Tree Removal and Impact on Local Biodiversity.**

There are significant tall trees over 5 metres on the property that would be affected by both developments on both lots. It doesn't look like there is very much deep soil or open space surrounding them and they could die if the development applications are approved because there is not enough adequate light for them, and structures will be built too close to the tree roots.

*There are numerous reports of protected, endangered and vulnerable species in the area including but not limited to the eastern bandicoot and powerful owl
<https://www.environment.nsw.gov.au/threatenedspeciesapp/>. We contest the applicant's assertion that this proposal does not impact threatened species.*

Comment:

The application seeks to retain most of the significant trees on the sit, including Tree 1 which is



identified as the large "*Ficus rubiginosa* (Port Jackson Fig) and *phoenix canariensis* (Phoenix Palm)". Tree 7 (Jacaranda) located on the western side of the site is proposed to be removed. It should be noted that Trees T4, T5, T6, T8 and T9 are located on adjoining properties and are retained.

- **Stormwater and Overland Flow**

The potential for stormwater issues and flooding within Alexander Street occurring as a result of the natural watercourse to the rear of the site, together with the limited pervious area provided on each of the allotments.

Comment:

This issue was reviewed by Council's Development Engineer and is considered unsatisfactory. This issue forms a reason for refusal.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>SUPPORTED</p> <p>No objections subject to conditions to ensure compliance with the Building Code of Australia (BCA).</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. In relation to this particular development these issues may be determined at Construction Certificate Stage.</i></p>
Environmental Health (Industrial)	<p>SUPPORTED</p> <p>Proposal for part demolition of existing dwelling and construction of an 11 unit boarding house. Environmental Health has assessed the development by addressing typical matters that are known to impact surrounding residences. Noise from mechanical exhaust, communal areas and waste collection, external lighting, and Acid Sulphate Soils are discussed below.</p> <p><u>Noise</u></p> <p><i>Communal and outdoor areas</i> – proposed use until 10:30 pm. Generally, NSW guidelines and laws state 10 pm as a time cut-off for residential noise.</p> <p><i>Waste collection</i> – standard residential, no need for exemplary conditions.</p> <p><i>Mechanical plant</i> – it is unclear as to if/what cooling/heating systems</p>

Internal Referral Body	Comments
	<p>will be used and where they will be placed. Externally located air-conditioners in close proximity to neighbouring residences are prone to creating 'noise nuisance' as defined in the <i>Protection of Environment Operations Act 1997</i>. Carpark exhaust system will fall into this same category with regard to conditions to be recommended.</p> <p><i>Rock-breaking</i> – the geotech report showed sand and clay to 2.4 m at DCP6, excavation to approximately 2.2 m. Unlikely that rock-breaking required to install footings, if needed, notification to neighbours one week prior to the works is recommended.</p> <p><u>External Lighting</u></p> <p>Any external lighting (e.g. in the outdoor communal area) should be directed away from surrounding residences.</p> <p><u>Acid Sulphate Soil</u></p> <p>Class 5 Acid Sulphate Soil on the north-western corner of the property. Excavation on this lower part of the property is unlikely to disturb acidic soils in a harmful way, no conditions or further information will be required of the applicant.</p>
Landscape Officer	<p>NOT SUPPORTED</p> <p>The application fails to provide sufficient landscaped open space consistent with the requirements of Part D1 Landscaped Open Space and Bushland Setting. The proposed development is not supported due to its uncharacteristic site treatment which is inconsistent with the surrounding properties,</p>
NECC (Development Engineering)	<p>NOT SUPPORTED</p> <p><u>Stormwater:</u></p> <p>It appears that no stormwater concept plan has been submitted for assessment. Please note that Council's On-site Stormwater Detention Technical Specification states that OSD will not be required where the site of the development is located within a Council established 100-year ARI flood plain, and that it can be demonstrated that lesser storm events will also flood the site. Otherwise it will be necessary to provide OSD to control the runoff for the minor storm events.</p> <p><u>Overland Flow:</u></p> <p>The overland flow report does not adequately demonstrate no adverse impact to the adjoining property. Additional information should be submitted including, but not limited to, the provision of afflux maps and appropriate cross-sectional information to clearly demonstrate this.</p>

Internal Referral Body	Comments
	<p>Driveway: The vehicular crossing shall be relocated to be a minimum 1 metre from the stormwater lintel. The driveway shall incorporate one of Council's standard vehicle crossing profiles.</p> <p>Insufficient information has been provided with regard to the proposed access driveway. The Applicant shall provide a long-section (including chainages, levels and gradients) of the proposed access driveway across the road reserve to the proposed carparking facilities and demonstrate compliance with AS2890. Any transitions to the driveway levels/gradients are to occur within the development site.</p> <p>Please refer to Traffic Engineering section for comments related to the carpark arrangement, turning paths and any passing bay requirements.</p> <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p> <ul style="list-style-type: none"> • Vehicle access for the development in accordance with clause C2 Traffic, Access and Safety. • Stormwater drainage for the development in accordance with clause C4 Stormwater.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>NOT SUPPORTED Please refer to Development Engineering referral for commentary regarding the overland flow impacting the site.</p>
Strategic and Place Planning (Urban Design)	<p>NOT SUPPORTED The proposal in its current form cannot be supported for the following reasons:</p> <p>General</p> <p>The proposed development of affordable rental housing in the R2 zone of Collaroy Basin locality cannot be supported.</p> <p>The following comments consider the two applications lodged for the site and the relationship of the adjacent buildings.</p> <p>Character/Context</p> <p>The locality is predominantly R2 low rise residential in proximity to B2 local centre. The proposed development of Lots 8 and 9, 18 Alexander Street Collaroy, I believe, need to be reviewed and considered side by side given the context of the development and the resulting adjacencies of the two buildings and the broader contextual relationship. As such comments address both buildings generally</p>

Internal Referral Body	Comments
	<p>where not specifically addressed as either Lot 8 or Lot 9 for the purposes of detailed planning and design assessment as they relate to each building.</p> <p>Site Response/Lot Consolidation</p> <p>It is acknowledged that the design of the two sites have a determined relationship to each other, however several issues arise when considering the development(s) in the broader context of the streetscape, character and bulk and scale.</p> <p>Whilst two separate applications and Lots the considered adjacency and design elements that respond to the streetscape can almost be read as a single development; entry staircases to the Lots from the street sharing a zero lot adjacency.</p> <p>Ultimately though the development will be read from a broader streetscape lens and effort to maintain similar characteristics and aesthetics, modulation and articulation are generally supported.</p> <p>However the intensity of the two sites developed simultaneously and the considered adjacency of the building to the R2 low density sites to the west and east of the two lots will be significantly impacted by the intensity of the development.</p> <p>Strategies that look to modularise each lot, with the potential for pavilions that bookend a central community landscaped open space is highly encouraged.</p> <p>As such the current intensity and configuration of the site planning cannot be supported</p> <p>Design/Aesthetics</p> <p>Volumes, proportion and ratio of the elevation and material treatments have merit and can generally be supported. Whilst not identical and providing difference across the whole elevation of the two lots side by side there is an inherent bulk and scale issue with the minimum 0.9m side setback almost of inconsequence. Similarly the two entry stairs to the front elevation sharing the central boundary adds to the perceived bulk and scale of the development. No through site vistas to green space between buildings at the western and eastern boundaries is compounded by the zero lot alignment of the entry stairs. As such the development presents as a large RFB of design merit but overscaled somewhat.</p>

Internal Referral Body	Comments
	<p>Boundary</p> <p>The opportunity to consolidate at a more finer grain detail should be further explored. Elevations that show adjacent relationships in terms of volume scale articulation and modulation are acknowledged. However the two lots adjacent developed simultaneously may share a relationship in terms of aesthetics and materials but requires further interrogation as to how the adjacent properties meet at the central boundary between Lots 8 and 9 does not necessarily need to be defined by a boundary fence.</p> <p>The opportunity to develop the site considering the lots as a single development would reveal further finer grain detail possibilities for this central area. Stairs on Boundary Fence – zero lot alignment. Removal of Boundary fence between Lot 8 and 9</p> <p>Internal Fences</p> <p><u>Lot 8</u></p> <p>The level 1 floor plan shows fences internal to the boundary dividing units Manager, Bed 7 and Bed 6 annotating this as private open space (POS).</p> <p>The value of these POS's at the size they are in terms of both orientation and amenity is somewhat diminished.</p> <p>There would be better value in treating this with a more refined landscape response potentially as a communal garden again across the two lots. It is noted that currently the orientation is not optimal with overshadowing covering the garden almost all of winter.</p> <p>Further investigation into how this garden may provide opportunities to create a consolidated backyard with Lot 9 incorporating the pool should be tested in more detail (see swimming pool comments below).</p> <p>The issue of solar access to the rear courtyard could be resolved by stepping the building back at the upper level to allow winter sun access to the rear yard all year round. Shadow diagrams demonstrating the winter azimuth and clear solar access to the rear garden should be demonstrated as explored through the deletion of part of the top storey to the rear of the site(s) to optimise the winter sun azimuth.</p> <p>Hard Surfaces</p>

Internal Referral Body	Comments
	<p>Paths at boundaries to the east show hard surfaces built to the boundary line, including stairs and egress routes similarly with hard surfaces built to the boundary. Refer landscape officer comments for further commentary on required Landscaped Open Space.</p> <p>Swimming Pool</p> <p>The adjacency of the swimming pool including enclosure to beds 4 and 5 on level 1 are such that privacy without the opportunity for visual connection to the outdoors is disrupted by the need for pool compliance fencing. Privacy screening for the units may provide some visual and acoustic privacy however the imposition on the residents to be constantly screening their lives for the multiple resident pool users is not an ideal planning outcome for resident amenity.</p> <p>Consideration of a substantial planting buffer between the level 1 residences at the rear of the site and the pool activity area is highly recommended. This may have the impact of pushing the private open space requirements further into the unit plan, thus reducing the floor areas potentially leading to a revised planning scheme or substantial modification to these units. Currently the drawings show the pool fence line is in fact also the balcony balustrade. Balustrading of balconies or private open space balustrading should not also be the pool fence. Refer compliance and regulation for pool fencing and consideration of the amenity comments above are highly recommended.</p> <p>Through Site Green Links</p> <p>The fact of the proposed two developments being lodged together (date etc) suggests the strategy for a development of two lots consolidated allowing for a greater developable footprint whilst remaining numerically compliant.</p> <p>If the lots were consolidated the development would be outside the allowable zoning effectively taking on the typology of an RFB. As such the development would be significantly reduced in bulk and scale should the development application have been lodged as a consolidated site.</p> <p>A simple cut and paste collage of the two lots developed when viewed from Alexander Street demonstrates a significant bulk and scale issue. This is clearly demonstrated such that upon completion of the two sites there would be no through site green link to view aspects beyond the façade. As previously mentioned there is no doubt the</p>

Internal Referral Body	Comments
	<p>development would read as a large single development.</p> <p>The planning regime may have merit if further consideration to the consolidation of the lots and a more fine grain and considered response the site as a whole is explored. This may reveal opportunities for a more considered response to the context. At present if the two lots were developed side by side as is the resulting outcome would not be supported.</p> <p>There is inherent merit in the design response in terms of materiality and aesthetics, even to the switching of materials and colours so as not to be read as the same development or a cookie cutter response but with quite distinct characteristics to each. This aspect of the proposed development is supported. However a more fine grain response and consideration of neighbouring amenity, site orientation in terms of solar gain throughout year and clearer through site links through greater side setbacks that provide vegetation and the opportunity for established planting is highly recommended.</p> <p>Internal Planning</p> <p>There are two instances (Lot 8 – Bed 9 and Lot 9 – Bed 7) where Door cross over into the turning circle of another door coinciding with the front entry door to the unit(s) and the internal bathroom door to the unit(s). This circulation in these areas is not ideal.</p> <p>1. SEPP Affordable Rental Housing (ARH) 2009 Clause 29(2) Wall Height Maximum Storeys and Rear Setbacks</p> <p>The following controls under the Affordable Rental Housing SEPP are not achieved;</p> <ul style="list-style-type: none"> a. Maximum wall height – 7.2m b. Rear setbacks – 6m <p>Wall height exceeds the 7.2 metre restriction on the northern wall/elevation zone of the building.</p> <p>A reduction in height of building at the rear of the site (south) to meet the 6m rear setback is required.</p> <p>Clause 30 A – Character of Local Area</p> <p>The design of the two developments demonstrates merit in the design approach. There are several tactics used across the two developments by adjacent structures up to boundaries; the open</p>

Internal Referral Body	Comments
	<p>access to level 1 and what will be a greater central staircase to each development, which will undoubtedly have the impact of a much larger RFB type development.</p> <p>The applicant is encouraged to investigate smaller modules/pavilion type strategies across the two sites to reflect the low density character of the area.</p> <p>2. Built Form Controls:</p> <p>WLEP 2011</p> <p><i>Aims of the LEP in relation to residential development, are to:</i></p> <p><i>(d) (i) protect and enhance the residential use and amenity of existing residential environments, and</i></p> <p><i>(ii) promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and</i></p> <p><i>(iii) increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah.</i></p> <p><i>(f) (i) achieve development outcomes of quality urban design, and</i></p> <p><i>(iv) ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment, . . .</i></p> <p>The aims of the zone, to ensure residential environments are in harmony with the surrounding single and double storey houses, have not been achieved.</p> <p>The proposed bulk and scale of the development needs to be in keeping with the local character, bulk and scale, in sympathy the neighbouring houses.</p> <p>The western and eastern boundary setback of 0.9 should be increased to 3m to allow for deep soil planting zones. This will assist to achieve a balance of open space whilst addressing the non compliance of the building envelope control. A considered response to the site coverage and appropriately distributed open landscaped</p>

Internal Referral Body	Comments
	<p>space is required to achieve a development that is more in sympathy with the surrounding neighbourhood and low rise residential character of the area..</p> <p>WDCP 2011</p> <p>B1 – Wall Heights</p> <p><i>Requirements</i></p> <p>1. <i>Walls are not to exceed 7.2 metres from ground level (existing to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space)).</i></p> <p>There are missing dimensions on the drawings demonstrating wall heights of 7.2 metres have not been breached. Refer cross section 2 on drawing DA200.</p> <p>B3 – Side Boundary Envelope</p> <p><i>Requirements</i></p> <p>1. <i>Buildings on land shown coloured on the DCP Map Side Boundary Envelopes must be sited within a building envelope determined by projecting planes at 45 degrees from a height above ground level (existing) at the side boundaries of: 4 metres</i></p> <p>There are no drawings that demonstrate compliance with this control however a visual assessment of the drawings clearly indicates that the control is breached by the compounding issues of height and minimal setbacks.</p> <p>B5 – Side Boundary Setbacks</p> <p><i>Objectives</i></p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • To provide opportunities for deep soil landscape areas. • To ensure that development does not become visually dominant. • To ensure that the scale and bulk of buildings is minimised. • To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained. • To provide reasonable sharing of views to and from public and private properties. <p>The creation of a 2-3 m setback to the western and eastern boundary will assist to create deep soil planting zones. Refer Landscape referral for a comprehensive analysis of Landscaped Open Space and recommendations for deep soil planting to achieve the required controls.</p> <p>B7 Front Boundary Setbacks</p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> • To create a sense of openness. • To maintain the visual continuity and pattern of buildings and landscape elements. • To protect and enhance the visual quality of streetscapes and public spaces. • To achieve reasonable view sharing. <p>Requirements</p> <ol style="list-style-type: none"> 1. Development is to maintain a minimum setback to road frontages. 2. The front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences. <p>It is assumed the front boundary setback is compliant. No dimensions on the drawings.</p> <p>B9 – Rear Boundary Setbacks</p>

Internal Referral Body	Comments
	<p>1. Development is to maintain a minimum setback to rear boundaries.</p> <p>2. The rear setback area is to be landscaped and free of any above or below ground structures</p> <p>Exceptions</p> <p>Corner Allotments on Land Zoned R2 or R3 On corner allotments for land zoned R2 Low Density Residential or R3 Medium Density Residential, where the minimum rear building setback is 6 metres, the rear building setback does not apply.</p> <p>It is assumed the rear boundary setback is complia</p> <p>D1 Landscaped open space and bushland setting</p> <p>Requirements</p> <p>1. The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and Bushland Setting. To measure the area of landscaped open space:</p> <p>a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;</p> <p>b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;</p> <p>c) Landscaped open space must be at ground level (finished); and</p> <p>d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.</p> <p>Required percentage of landscaped area has not been achieved (40%). Deck structures and impervious finishes are not to be calculated as Landscape open space. Refer Landscape officer comments.</p>
Traffic Engineer	NOT SUPPORTED

Internal Referral Body	Comments
	<p>The proposal is for the addition and alteration to construct 2 storey affordable boarding house with 11 rooms at Lot 9, 18 Alexander St, Collaroy.</p> <p>Traffic: Construction Traffic: Because 3T load limitation of Alexander Street, narrow street and parking demand Demolition and Construction Traffic Management Plans are required. Traffic generation: Negligible and no concern. Public transport available</p> <p>Parking: Vehicles: As per SEPP, 0.5 space / boarding room and Max. 1 space for staff/ manager who is also a resident. Accordingly <ul style="list-style-type: none"> - 10 boarding rooms require 5 space - 1 Manager room require 1 space. The site is proposing 6 spaces including 1 space for manger who is a resident and an accessible space. Motorcycles: As per SEPP, 1 space for every 5 boarding room. <ul style="list-style-type: none"> - The site is proposing 2 spaces Bicycles: As per SEPP, 1 space for every 5 boarding room. <ul style="list-style-type: none"> - The site is proposing 3 spaces Parking numbers are deemed compliant.</p> <p>Access and circulation swept paths: - The site has poor visibility from the street to the parking spaces in the rear. As such, there needs to be a passing bay opportunity compliant with AS2890. This will require a minimum driveway width of 5.5m for the first 6.0m within the property boundary. Waiting/queuing on Council's Road is not acceptable. - The carpark is not compliant with AS2890. Particularly the requirement for a minimum 1.0m clearance at blind aisles. This is effecting the accessibility of space 4.</p> <p>Pedestrian safety: No concerns.</p> <p>Servicing: On-street waste collection is deemed acceptable.</p> <p>Based on the issues identified with the access concerns above, the development proposal cannot be supported in its current form..</p>
Waste Officer	<p>NOT SUPPORTED</p> <p>The temporary bin holding bay proposal is unacceptable. This temporary holding bay area as shown is counted in the landscape area.</p> <p>Bin holding bays must have hardstand floor (eg. concrete) and must screen the bins from view from the street (eg. walled to an appropriate height to obscure the bins from view).</p>

Internal Referral Body	Comments
	<p>The temporary holding bay area shown on the plans cannot be both a bin bay <u>and</u> a landscape area.</p> <p>Should the applicant choose to modify this area to comply with the bin storage bay requirements the proposal must also meet the access criteria - that being: <i>access to the bin holding bay must via a separate path to the vehicular driveway.</i></p> <p>Council will not accept any proposal for the bins to be placed at the kerbside for collection. Council will provide a' wheel out/ wheel in' service to the property.</p> <p>10 rooms + managers residence Proposal will be required to store the following bins:</p> <ul style="list-style-type: none"> • 4 x 240 litre garbage bins • 5 x 240 litre recycle bins • 1 x 240 litre vegetation bin <p>The footprint of a 240 litre bin is 600mm wide x 750mm deep.</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>SUPPORTED</p> <p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p>SUPPORTED</p> <p>The application was referred to Roads and Maritime Services (RMS) Transport for NSW (TfNSW) who raised no objections to the proposal subject to the following comments:</p> <p>TfNSW has reviewed the submitted application and raises no objection to the application and provides the following advisory comments to Council for consideration in its determination of the development application:</p> <p><i>1. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth).</i></p> <p><i>2. Council are to be satisfied that the layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) are in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2-2018 for heavy vehicle usage.</i></p> <p><i>Parking Restrictions may be required to maintain the required sight distances at the driveway.</i></p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.



In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

*"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means "a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that	

is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	Consistent The site is located within the R2 Low Density Residential Zone and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. Note: Accessible area means land that is within: (c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.	Consistent The site is located within the R2 Low Density Residential zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.
(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable. The site is located within the Sydney region.

Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applied in WLEP 2011 or WDCP	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Floor space ratios are not applied in WLEP 2011 or WDCP	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	N/A	N/A
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the	The building height limit under WLEP 2011 is 8.5m.	Compliant

	maximum building height permitted under another environmental planning instrument for any building on the land,		
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The sites surrounding the development are single dwelling houses which predominantly provide a single driveway crossing to one side of the site with natural landscaping infilling the rest of the frontage.	Inconsistent While the plans submitted indicate that the frontage will consist of a landscaped area measuring approximately 44m ² , due to nature of the development being a boarding house and not a single dwelling, the site requires a passing bay in order to provide compliant vehicle access to the site, more than half of this area would be required to be hardstand. The extent of hard paving required to satisfy the Traffic requirements would result in this development being incompatible with the adjoining low density development with a single driveway access to a garage or carport structure.
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The primary communal living area within this development is located at the front of the building adjacent to the communal terrace. This space is north facing and will benefit with direct sunlight access into this area for more than 3 hours a day.	Consistent
(d) private open space	if at least the following private open space areas are provided (other than the front setback area):	The development includes areas which may be used for private open space around the pool area and within the rear south-west corner	Compliant

	<p>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	for the boarding house manager.	
(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(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, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is</p>	<p>The proposed development is not by or on behalf of a social housing provider and is therefore required to provide 0.5 parking spaces for each boarding room and 1.0 space for the boarding house manager.</p> <p>The development for 10 rooms plus a managers room requires six (6) spaces.</p> <p>Six (6) parking spaces are provided.</p>	Compliant

	resident on site,		
(f) accommodation size	if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	The proposed development provides ten (10) double boarding rooms and a managers room all with more than 16m ² of gross floor area.	Compliant
	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Each boarding room provides a private kitchen and bathroom facilities.	Consistent
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Not Applicable	N/A

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	The development provides a single common room at Level 1.	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	The floor areas of each boarding room do not exceed 25m ² .	Compliant
(c) no boarding room will be occupied by more than 2 adult	The application was accompanied by an Operational	Compliant

lodgers,	Plan of Management which identifies that each lodger will be provided with a 'Resident Information Brochure' as part of their lease which states that no more than 2 adult residents may occupy any room.	
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each boarding room contains independent cooking facilities. In addition, the common room at Level 1 provides communal cooking facilities.	Consistent
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The boarding house has a maximum capacity of twenty (20) lodgers within ten (10) boarding rooms. A separate managers apartment is identified on Level 1 at the rear of the property.	Consistent While the proposal provides the required Managers apartment, the location of this space at the rear of the site away from the entrance of the building and completely disconnected from the common open space areas is not considered a desirable outcome.
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	The proposed boarding house is located within a residential zone (R2 Low Density Residential). Accordingly, this clause does not apply.	Consistent
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	As the development includes ten (10) boarding rooms, there is a requirement for space to accommodate two (2) bicycle and two (2) motorcycles. The development includes space for three (3) bicycles and two (2) motorcycles.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	This clause does not apply.	N/A

Clause 30AA: Boarding houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Comment:

The proposed development is located within an R2 low density zone and provides a maximum of ten (10) boarding rooms. The proposal is consistent with this requirement.

Clause 30A: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- *The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.*

Comment:

The site is located within a low density residential street which contains single dwellings which are either single storey or two storeys, some with parking below where the site contains a significant fall in topography to accommodate this. The predominant character of the street which contains a varied range of building ages and styles is of one and two storeys within a landscaped setting providing adequate separation from the neighbouring site.

The development consists of three storeys with a large open terrace overlooking the street. The terrace itself does not make this development incompatible with the character of the surrounding area, the lack of building setback/separation, building envelope and landscaped open space non-compliances results in a building form which will dominate this part of the street.

In this regard, it is considered that the scale of the development is incompatible with the streetscape and inconsistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

While the architectural style of the building presents an aesthetically acceptable form, the severe lack of landscaped setting and setbacks for this form of multi unit housing is significantly under done. The resulting building form is excessively bulky with no generous breaks that would reasonably accommodate sufficient landscaping to break up the scale of the built form.

In this regard, the development is considered to be incompatible with the scale of surrounding development and inconsistent with the second principle.



- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*

Comment:

While the development seeks to retain some significant sized trees within the site, these do not compensate for the extremely lack of landscaping provide around the development. The lack of space for meaningful landscaping will result in a lack of commensurate vegetation suitable of screening and softening the building form in the immediate or long term.

In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance and is inconsistent with the third principle.

- *The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.*

Comment:

The proposed building by virtue of its bulk and scale and lack of landscape setting fails to sympathetically reflect the form of buildings within the street.

In this regard, the development is considered to be inconsistent with the fourth principle.

The above principles were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the Development Potential of Surrounding Sites

The lack of separation from the adjoining sites (0.25m-0.9m to the west and nil setback to the east) for a development that provides a medium density scale of accommodation is considered to adversely impact the potential of the surrounding sites. Instead of adequate setbacks being accommodated within the development site, the proposal is reliant on the existing pattern of setback and landscaped settings on adjoining properties to offer a level of privacy and separation for noise. The development fails to provide suitable setbacks for this form of development (4.5m setback for multi unit housing) and is considered unacceptable in this regard.

Privacy

The development includes an elevated common open space terrace at the front of the site which will



centralise social clustering of the occupants in a location where they will have vantage point into multiple dwellings to the north and to the west. The site also includes a main access pathway located with a nil setback along the eastern boundary. This pathway is elevated more than 1m above the existing ground level of the adjoining site with no opportunity for any landscape planting to be provided.

Overshadowing

As the site is oriented north-south, the proposed building form will result in additional overshadowing in the morning to the property to the west and in the afternoon to the east.

Noise

While the use of the site as a boarding house is permissible within the zone, the site as proposed to be developed provides a number of departures from the development controls which seek to guide the future redevelopment of properties in this location. The required setbacks for the site are 0.9m which would generally apply to a single dwelling house. The proposed development is identified as multi unit housing which would otherwise require a side setback of 4.5m.

The proposed basement/undercroft area seeks a 80%-94% variation on the side setback along the western extent of the basement structure and 79%-100% variation on the eastern side of the site. As the building form provides no area for landscaping within the side setback area of the development there is no opportunity to incorporate characteristic landscape planting along the boundary of the site to support separation of the site with the neighbour.

Concern is raised that the exposed common open space terrace which offers no adequate screening or protection for neighbouring properties will become a source of nuisance and complaint to Council in the future.

Conclusion to Character Assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is incompatible with the character of the local area and surrounding wider locality.

This matter warrants the refusal of the Development Application.

Conclusion

The proposed development is not supported.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1082880M dated 26 March 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Concession Target Pass
Energy	45	45



A condition will be included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate should the application be supported.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	No



Detailed Assessment

Zone R2 Low Density Residential

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Zone R2 Low Density Residential of the Warringah Local Environmental Plan 2011.

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. The application has been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised objections to the proposed development as *"the overland flow report does not adequately demonstrate that no adverse impact to the adjoining property."*

Therefore, Council is not satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control - R2 Low Density Residential	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.04m	11.7%	No
B3 Side Boundary Envelope	East - 4.0m	encroachment up to 2.7m	N/A	No
	West - 4.0m	encroachment up to	N/A	No

		3.8m		
B5 Side Boundary Setbacks	East - 0.9m	0.9m to basement Nil to elevated walkway	Nil 100%	No Inadequate setback Refer to detailed discussion
	West - 0.9m	0.25m to basement	72%	No Inadequate setback Refer to detailed discussion
B7 Front Boundary Setbacks	6.5m	2.5m to entry stairs	61.5%	No
B9 Rear Boundary Setbacks	6.0m	4.63m to balcony Bed 4 and 5	22.8%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (229.92m ²)	17% (97.72m ²)	57.5%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	No	No
B3 Side Boundary Envelope	No	No
B5 Side Boundary Setbacks	No	No
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	No	No
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	Yes	Yes
C4 Stormwater	No	No
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	No	No
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
D14 Site Facilities	No	No
D20 Safety and Security	No	No
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposed development does not provide compliant wall heights with the development seeking a wall height of up to 8.04m (12% variation).

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

Given the size of the building footprint and the length of the building facade which does not comply of over 17m, the consolidated impact of the development from surrounding developments will very apparent. The development provides no adequate relief of the wall height and will present a significant building mass to the neighbouring properties.

- To ensure development is generally beneath the existing tree canopy level*

Comment:

The development is below the maximum building height for the site and is under the tree canopy.

- To provide a reasonable sharing of views to and from public and private properties.*

Comment:

There are no views identified that will be impacted by the proposed development.

- To minimise the impact of development on adjoining or nearby properties.*

Comment:

The proposed development will create a significant impact on the adjoining and nearby properties. The scale of the development is considered inconsistent with the character of dwellings in this location.



- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

While the proposed development has provided some subtle stepping in the building form, the overall site coverage results in building sections which extend beyond a reasonable footprint. The extent of excavation while not excessive could be reduced with a compliant site coverage.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

No objection is raised to the proposed roof pitches.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of Non-compliance

The proposed development in order to maximise internal floor area within the building envelope has not provided any stepping of the building facade to the sides of the building form consistent with the intent of the side boundary envelope requirement. As a result the development provides non-compliances on both the eastern and western facades of the building of up to 2.7m and 3.8m respectively.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposed building form is considered to fail this requirement. The development provides totally inadequate setbacks to both boundaries resulting in a scale of development that is not envisaged by the built form controls that are in place to guide the future character of development.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

No adequate spatial separation is provided between the site and the neighbouring properties. The development effectively contains ten (10) individual dwellings with one (1) main area for congregating at the front of the site. Privacy to surrounding properties is severely compromised as a result.



- *To ensure that development responds to the topography of the site.*

Comment:

The development incorporates a partially excavated basement structure below two levels of accommodation. While the design includes some stepping at the centre of the site, this response is not considered sufficient given the length of the building form.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of Non-compliance

While the subject site is located within the R2 Low Density Residential zone which would ordinarily require a side boundary setback of 0.9m, the proposed development is multi unit housing which would normally be contained within a zone which contains controls suitable for that form of building type. Accordingly, the setbacks which this development should be considered against would be 4.5m.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for deep soil landscape areas.*

Comment:

The siting of this development provides little to no opportunity for the inclusion of deep soil landscaping within the side setbacks of the site. The basement/undercroft area extend to up to 0.25m from the western boundary and 0.9m to the eastern boundary. The development also includes a nil setback to the elevated access pathway which is the main pedestrian access into the building and to the rear of the site. There is no deep soil planting to the western side of the building footprint and there is only a small area measuring 16m² on the eastern side toward the front of the site which is intended to support the retention of Tree 1 which is 10m in height.

- *To ensure that development does not become visually dominant.*

Comment:

The development relies heavily on the trees and vegetation located on the adjoining properties to the west and the south to provide any relief to the three storey building form. The building will not provide any substantive landscape plantings to either side of the building to soften the appearance of the development or provide any sense of separation.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The uncharacteristic and non-compliant building form seeks substantial variations to the side setback, building envelope and landscaped open space requirement. All of these controls seek



to control bulk and scale and building density on sites. The proposed significant variations to these controls reinforces the developments inconsistent and uncharacteristic bulk and scale.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The proposed development provides insufficient setbacks at all levels of the development. The excavated basement is between 0.25m and 0.9m from the boundary and the first and second floor levels provide 0.9m to the west and 1.2m to the east. The primary common open space area is located at the front of the site and will create real and perceived impacts on the visual and aural privacy of surrounding properties.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

There are no views identified which will be impacted by the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B9 Rear Boundary Setbacks

Description of Non-compliance

The proposed development introduces new building elements which project into the rear boundary setback of the site being the balcony attached to Bedroom 4 and Bedroom 5.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

Due to the retention of the existing swimming pool, the rear setback area has only a small section of land within the south-western corner measuring 18m² which would be available for deep soil landscaping. While this area will provide some relief to the western neighbour, it is not sufficient to provide adequate deep soil area across the rear of the site.

- *To create a sense of openness in rear yards.*

Comment:

The plans indicate that the private open space balconies to Bedroom 4 and 5 will directly adjoin the pool enclosure. As there will be multiple fences/barriers within this space to maintain privacy to these areas, the development is not considered to satisfactorily address this requirement.



- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

There is no protection of the amenity of the adjoining site to the east. The balcony areas at Level 1 and Level 2 will be unobstructed by any vegetation to assist in this instance.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

For the allotments which are located to the east and west of the site on the southern side of Alexander Street, these properties all provide a single dwelling footprint with a substantial landscaped rear setback and in some instances landscaped front setback. The proposed building footprint is uncharacteristic and results in a compromised rear setback area.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The site has the benefit of adjoining the Salvation Army Retirement Village land to the south and therefore there is no concerns raised in relation to overlooking or privacy into the property to the south which consists of extensive landscaped grounds.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C2 Traffic, Access and Safety

Council's Traffic Engineer has reviewed the proposed development and advised that the parking and access is unsatisfactory. The site requires a passing bay in order to satisfy the relevant Australian Standard which is not incorporated into the design.

C4 Stormwater

The application has been assessed by Council's Development Engineer and insufficient information has been provided to satisfy the requirements of this control. Details of the required information is provided under the Development Engineering referral comments.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The development is required to provide 40% of the site area as compliant landscaped open space. The proposal provides 17% calculable landscaped open space which is significantly short of the required area.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:



- *To enable planting to maintain and enhance the streetscape.*

Comment:

The plans indicate an area measuring approximately 44m² of landscaped open space within the front setback of the property. Unfortunately, this landscaping cannot be relied on as the development will require a passing bay to be accommodated within the first 6.5m of the site in order to satisfy the traffic and parking requirements.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The Arborist report submitted with the application indicates that there are only 2 trees identified on the survey which will be removed, one of those has already been removed. Subject to the development and proposed excavation being able to honorably maintain the existing mature trees identified for retention, the proposal is able to satisfy this requirement.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

As identified within this report, the only substantive area of landscaped open space which is not likely to be compromised by the parking and access is located within the rear south-western corner of the site. This area is conflicted as it is also identified as 'private open space' for the Managers apartment and so is unlikely to contain and significant vegetation.

- *To enhance privacy between buildings.*

Comment:

The proposed building form and site layout makes no allowance for any landscaping along the sides of the development to enhance the buildingform or provide any form of screening.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

While the proposal retains the existing swimming pool within the rear yard of the site, there are no other areas available to the occupants which would represent any form of area for recreational activities.

- *To provide space for service functions, including clothes drying.*

Comment:

The site does not provide sufficient space for the requisite service functions including adequate bin storage.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The proposed development has not provided adequate management of stormwater. This issue forms a reason for refusal.



Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D3 Noise

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To encourage innovative design solutions to improve the urban environment.***

Comment:

A more considered positioning of the outdoor terrace and how it relates to the surrounding properties is required in order to establish this element of the development. Given the many properties that this space overlooks, it would be more suitable for another location within the development to be considered.

- ***To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.***

Comment:

Insufficient information detailing the measures proposed to address noise generated from the development have been provided to satisfy this requirement.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D8 Privacy

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- ***To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.***

Comment:

The proposed building design which incorporates the main common open space spanning the front of the site is considered to compromise the visual and acoustic privacy of the neighbouring properties on the opposite side of Alexander Street.

Further, the development due to its deficient setbacks includes numerous windows and openings within 900mm of the side boundary. For a multi dwelling development that is seeking to be compatible with a low density setting these elements of the development which are contrary to the requirements of the clause further demonstrate that this site is not appropriate for this development.



- *To encourage innovative design solutions to improve the urban environment.*

Comment:

There are no elements designed into this development which can be considered to adequately address this objective to improve the urban environment.

- *To provide personal and property security for occupants and visitors.*

Comment:

While it is assumed that access to the premises will be secured, as the Manager's residence is significantly separated from the front half of the site, supervision of the security of the common open space is not well considered.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The development fails to meet the requirements of this control on most points. There are no progressively increased side and rear setbacks, the development includes large continuous wall planes which do not comply with the wall height control, the building footprint has not been minimised to address the slope of the land and there is a substantial lack of landscape planting on the site due to insufficient landscape area to support vegetation which could serve to soften the built form.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The proposed redevelopment of this site needs to be considered as proposed, however consideration should also be given to the combined visual impact of this development and the proposed boarding house development under separate application on Lot 8. In both instances, the visual impact of the development has not been minimised which is reflected in the substantial built form non-compliances documented in this assessment.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D14 Site Facilities

The proposed development has been reviewed and assessed by Council's Waste Management Section



as unacceptable. Refer to Waste comments in the referrals section.

D20 Safety and Security

The development includes disabled parking and a stair platform lift to provide access into the development which is commendable. The design however fails to resolve this access and is inconsistent specifically with Requirement 9 (e) which states:

e) Potential conflict between pedestrians and vehicles is avoided.

The redirection of people within the driveway access where there is no protected path and onto the street in order to re-enter the site to the east of the driveway where the stair lift is located is unacceptable and inconsistent with this requirement.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

The application has been assessed against the provisions of:

- Environmental Planning and Assessment Act 1979;



- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan 2011;
- Warringah Development Control Plan 2011; and
- Codes and Policies of Council.

The assessment has taken into consideration the submitted plans, Statement of Environmental Effects and all other documentation supporting the application and public submissions.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP 55, SEPP Affordable Rental Housing, SEPP Infrastructure, WLEP 2011, the relevant codes and policies of Council, and the relevant provisions of the WDCP 2011.

The application was referred to internal departments and external authorities. In the responses, Council's Urban Designer, and Traffic Engineer each raised fundamental concerns with the proposal. Council's Waste Management and Development Engineering sections have indicated that insufficient information has been provided to adequately address the requirements of the proposal.

The development attracted 21 individual submissions. The submissions raised concerns with regards to the proposed density and scale, character, safety and traffic and parking. Other issues raised include the impact of the development on the neighbouring properties in relation to amenity issues including privacy and noise. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report.

The assessment of the application against the provisions of SEPP Affordable Rental Housing found that the proposal is unsatisfactory with a number of the requirements.

The assessment of the proposed development against the provisions of WDCP 2011 found that the proposal is not consistent with Clauses B1, B2, B5, B9, C2, C4, C7, D1, D3, D8, D9 and D14.

Based on the assessment contained in this report, it is recommended that the Northern Beaches Local Planning Panel refuse the application for the reasons detailed within the recommendation attached to this report, and any amendments to those reasons, which would constitute the contentions in defence of the Court appeal.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.



RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/0205 for the Part Demolition works and construction of Boarding House with associated carparking and Landscaping on land at Lot 9 DP 6984, 18 Alexander Street, COLLAROY, for the reasons outlined as follows:

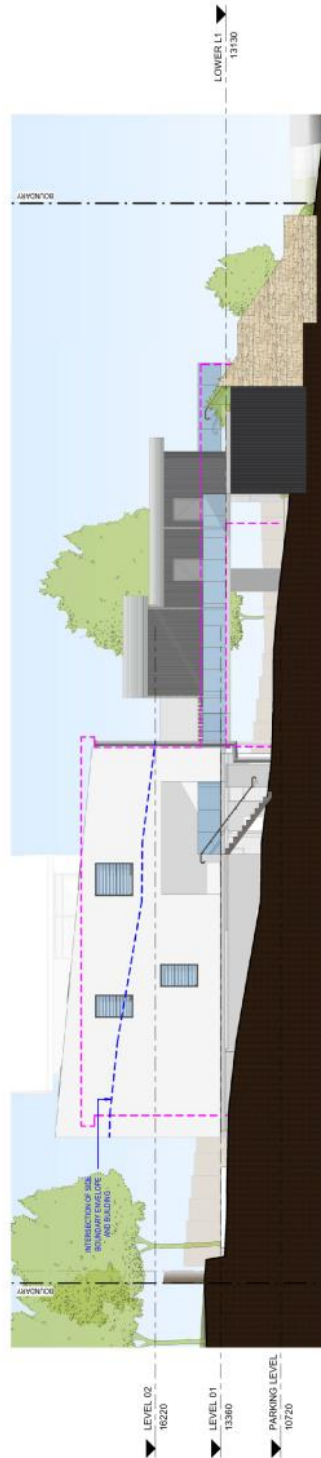
1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009:
 - o Clause 29(2)(b).- the landscaped area is considered inconsistent.
 - o Clause 30(A) - The proposal is inconsistent in character
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Warringah Local Environmental Plan 2011:
 - o Clause 1.2 Aims of The Plan
 - o Clause 2.3 Zone Objectives
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the relevant provisions of the following clauses of the Warringah Development Control Plan:
 - a. B1 Traffic Access and Safety
 - b. B2 Number of Storeys
 - c. B3 Side Boundary Envelope
 - d. B5 Side Boundary Setback
 - e. B9. Rear Boundary Setback
 - f. C2. Traffic, Access and Safety
 - g. C4. Stormwater
 - h. C9. Waste Management
 - i. D1 Landscaped Open Space and Bushland Setting
 - j. D2 Private Open Space
 - k. D3 Noise
 - l. D8 Privacy
 - m. D9 Building Bulk
 - n. D14 Site Facilities
4. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is considered an over development of the site.
5. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest.





1. PROPOSED NORTH ELEVATION
Scale: 1:100 @ A1

2. PROPOSED SOUTH ELEVATION
Scale: 1:100 @ A1



3. PROPOSED EAST ELEVATION
Scale: 1:100 @ A1



4. PROPOSED WEST ELEVATION
Scale: 1:100 @ A1

LEGEND
- NATURAL GROUND LEVEL
- 4.8M HEIGHT PLANE
- SIDE BOUNDARY ENVELOPE
- INTERSECTION
- DARTMOUTH ENVELOPE

Rev. A

Date 10.02.20

Description ISSUE FOR DEVELOPMENT APPLICATION

No. A

Number DA300

Sheet Name ELEVATIONS

Scale 1:100 @ A1

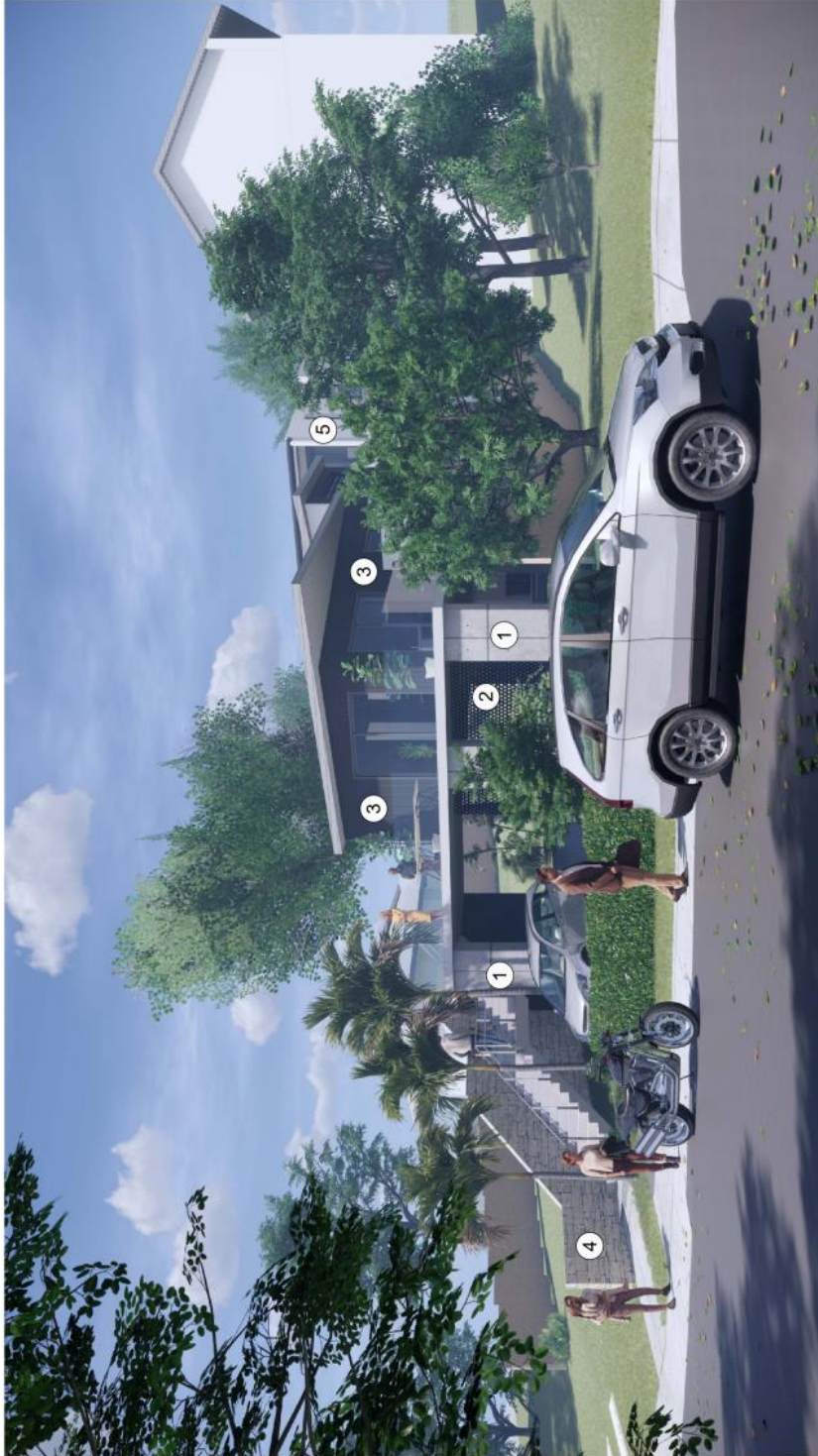
Registered Architect
ACT 2624 NSW 10366
scott@walsh2architects.com.au
0469 849 850

Walsh²
Architects

Project: LOT 9 - 18 ALEXANDER ST - ALTS & ADDS
COLLAROY NSW

Client: BRENDAN & SIMONE WAIGHTS

This drawing is copyright and remains the property of Walsh² Architects.
This drawing is for tender purposes only and not for construction.



5. WHITE - PAINTED EASYLAP FC



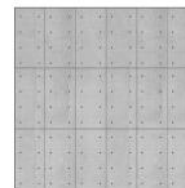
4. SANDSTONE - ENTRY STAIRS
AND RETAINING WALLS



3. JAMES HARDIE AXON 133
PROFILE LAID VERTICALLY WITH
PAINTED MONUMENT FINISH.



2. METALWORK -
PERFORATED METAL
SCREENS - POWDERCOATED
MONUMENT



1. INSITU CONCRETE

Project: LOT 9 - 18 ALEXANDER ST - ALTS & ADDS
COLLAROY NSW
Client: BRENDAN & SIMONE WRIGHTS

Walsh²
Architects
Registered Architect
ACT 2824 NSW 10396
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0466 849 850

Sheet Name
EXTERNAL FINISHES

Scale
1: 200 @ A1

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Number
DA800

No.
A
Description
ISSUE FOR DEVELOPMENT APPLICATION
Date
10.02.20
Rev.
A

ITEM 3.2

**DA2020/0261 - 18 ALEXANDER STREET, COLLAROY -
PARTIAL DEMOLITION WORKS AND CONSTRUCTION OF A
BOARDING HOUSE WITH ASSOCIATED CARPARKING AND
LANDSCAPE WORKS**

AUTHORISING MANAGER STEVE FINDLAY

TRIM FILE REF 2020/499075

ATTACHMENTS

- 1 [↓](#)Assessment Report**
- 2 [↓](#)Site Plan and Elevations**

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **refuses** Application No. DA2020/0261 for partial demolition works and construction of a Boarding House with associated carparking and landscape works at Lot 8 DP 6984, 18 Alexander Street, Collaroy for the reasons set out in the Assessment Report.



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0261
Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot 8 DP 6984, 18 Alexander Street COLLAROY NSW 2097
Proposed Development:	Partial demolition works and construction of a boarding house with associated carparking and Landscape works
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Simone Victoria Waights
Applicant:	Brendan Andrew Waights
Application Lodged:	16/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	21/03/2020 to 11/04/2020
Advertised:	21/03/2020
Submissions Received:	25
Clause 4.6 Variation:	Nil
Recommendation:	Refusal
Estimated Cost of Works:	\$ 975,000.00

EXECUTIVE SUMMARY

The proposed development includes demolition of all structures on the site and construction of a three (3) storey boarding house containing twelve (12) boarding rooms and an on-site Managers residence with basement parking for seven (7) cars.

The public exhibition of the development resulted in twenty five (25) submissions, all objecting to the proposal and raising concerns relating to amenity (noise and privacy), traffic and parking, character, density, height (number of storeys), tree removal and compliance with relevant legislation. These concerns have been addressed within this report and provide the basis for certain matters that warrant the refusal of the application.

The assessment of the application has found that the proposal cannot be supported, as it fails to



comply with a number of planning controls; including, the side boundary envelope, side setback, rear setback and landscape open space.

The application is currently the subject of a Class 1 Appeal in the NSW Land and Environment Court.

It is also relevant to note that the adjoining lot 9 that forms part of this site has a separate application which is following the same path as this current application for a second boarding house of similar bulk and scale. The implications of both lots being developed for this purpose while individually considered on their merit should also be considered in terms of the consolidated impacts on the surrounding neighbourhood and the impact that these developments are likely to create on the character of the area.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal does not satisfy the appropriate controls.

Accordingly, it is recommended that the NBLPP, as the determining authority, refuse the application for the reasons detailed within the recommendation section of this report, and any amendments to those reasons, which will constitute the contentions in the defence of the Court Appeal.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for demolition of the existing structures, excluding the swimming pool on the site and construction of a two (2) and three (3) storey, split level boarding house containing twelve (12) double rooms, a manager's room and basement/undercroft parking on Lot 8.

The application also includes earthworks and excavation, associated civil infrastructure, including on-site stormwater detention, a new driveway located at the centre of the boundary and site landscaping.

The boarding house comprises the following:

Basement Level (RL 10.720)

- Seven (7) parking spaces including one (1) manager's space and one (1) accessible space
- Three (3) motorbike parking spaces
- Three (3) wall mounted bicycle parking
- Garbage bin storage for 9 bins
- Eleven (11) individual storage areas

Level 1 (RL 13.360)

- Rooms 1, 2, 3, 4, 5, 6 and 7
- Manager's residence with private bathroom and kitchen facilities
- Communal Common Room (17.9m²)



- Common Open Space terrace (20.2m²)

Level 2 (RL 16.220)

- Rooms 8, 9, 10, 11 and 12

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - B1 Wall Heights
 Warringah Development Control Plan - B3 Side Boundary Envelope
 Warringah Development Control Plan - B5 Side Boundary Setbacks
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C4 Stormwater
 Warringah Development Control Plan - C9 Waste Management
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk
 Warringah Development Control Plan - D14 Site Facilities
 Warringah Development Control Plan - D15 Side and Rear Fences
 Warringah Development Control Plan - D20 Safety and Security

SITE DESCRIPTION

Property Description:	Lot 8 DP 6984 , 18 Alexander Street COLLAROY NSW 2097
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Detailed Site Description:

The site is legally identified as Lot 8 DP 6984, and is known as 18 Alexander Street, Collaroy.

The site currently contains a two (2) to three (3) storey brick dwelling house which straddles Lot 8 and Lot 9 of DP 6984 with a detached single storey timber clad shed located on the boundary between Lot 8 and Lot 9 and a swimming pool located at the rear of the existing dwelling.

Vehicular access to and from the each lot is available via a single driveway crossing.

The site is regular in shape with a frontage of 12.20m accessing onto Alexander Street and a depth of 47.995m. The site has a surveyed area of 581.3m². The site has a fall from the rear southern boundary to the front of the site of approximately 5m.

Surrounding and adjoining development within Alexander Street is predominantly one and two storey residential dwelling houses some of which provide parking below where the sites becomes steeper in topography further west along Alexander Street. The site is zoned R2 Low Density Residential and is 108m along the southern side of Alexander Street from the commercially zoned properties fronting Pittwater Road and Collaroy Beach and approximately 42m diagonally to the rear of the commercial properties along the northern side of Alexander Street.

Map:



SITE HISTORY



A search of Council's records has revealed the following relevant history:

Development Application No. DA2015/081

Alterations and additions to a dwelling house and construction of front and side fencing - Approved 12/10/2015.

Development Application No. DA2019/0306

Boundary adjustment, part demolition for alterations and additions to a dwelling house, construction of a detached dwelling house and a Secondary dwelling - Refused 09/12/2019

Review of Determination REV2020/0001

This application was a review of determination DA2019/0306 for a boundary adjustment, demolition works, alterations and additions to a dwelling house and construction of a secondary dwelling. The application was approved on 24 April 2020.

Development Application No. DA2020/0261

DA2020/0261 for construction of a boarding house with twelve (12) double rooms and a Manager's residence was lodged with Council on 16 March 2020.

The development application was referred to Council's Development Engineer, Building Surveyor and Assessment Team (Fire and Disability), Environmental Health, Landscape Architect, Urban Design, Traffic Engineer and Waste.

The application was notified and advertised for a period of 21 days from 21 March 2020 to 11 April 2020 in accordance with Northern Beaches Community Participation Plan. Council received twenty five (25) submissions as a result of this notification.

On 15 May 2020, the Applicant commenced Class 1 proceedings in the Land and Environment Court appealing Council's deemed refusal of the development application.

This application is the subject of this assessment.

There was no pre-lodgement advice sought in relation to this development.

Development Application No. DA2020/0205

DA2020/0205 for demolition works and construction of a ten (10) room boarding house with a 'Managers Room' was lodged with Council on 4 March 2020.

This application is proposed on Lot 9 and is being assessed concurrently with the subject application on Lot 8.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The

Section 4.15 Matters for Consideration'	Comments
instrument	<p>subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.</p> <p>Draft State Environmental Planning Policy Housing Diversity seeks to consolidate SEPP (Housing for Seniors and People with a Disability) 2004, SEPP (Affordable Rental Housing) 2009 and SEPP 70 (Affordable Housing (Revised Schemes)) to help facilitate housing projects that will stimulate the economic recovery, establish planning pathways to support 'Build-to-rent' (BTR) housing and amend planning provisions relating to boarding houses and seniors housing development. The Explanation of Intended Effect is on exhibition until 9 September 2020. This legislation is early in the consultation process, accordingly, no further consideration is required for this application.</p>
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter may be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter may be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a</p>



Section 4.15 Matters for Consideration'	Comments
	design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. Insufficient information has been provided in relation to the impact of the development on overland flow.</p> <p>(ii) Social Impact The use of the development as a boarding house will not in itself result in a detrimental social impact given boarding houses are a permissible land use within the zone and locality and the residents of the boarding house would be required to reside there in accordance with an adopted Operational Plan of Management and their lease agreements. Overall, in terms of social impact, the proposal will not have a detrimental impact.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development given the intensity of the proposal. The building form and scale is considered an over-development of the site and is inconsistent with the character of the locality.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the Side Boundary Setbacks, Side Boundary Envelope, Landscaped Open Space, Private Open Space and Privacy and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/03/2020 to 11/04/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.



As a result of the public exhibition process council is in receipt of 25 submission/s from:

Name:	Address:
Mr Niall Alastair Lindsay Johnston	11 Alexander Street COLLAROY NSW 2097
Mr Paul Austin Gallagher	35 Alexander Street COLLAROY NSW 2097
Karen Eileen Rolls	30 Alexander Street COLLAROY NSW 2097
Denis Anthony Watchorn	36 Alexander Street COLLAROY NSW 2097
Mr Bruce Davison Mrs Wendy May Davison	15 Alexander Street COLLAROY NSW 2097
Fran Dargaville	Address Unknown
David William Rolls	30 Alexander Street COLLAROY NSW 2097
Frances Anne Murphy	13 Alexander Street COLLAROY NSW 2097
Giles Owen Hurst	26 Alexander Street COLLAROY NSW 2097
Mr Owen Douglas Cardwell	47 Alexander Street COLLAROY NSW 2097
Susannah Lee Barry	12 Alexander Street COLLAROY NSW 2097
Mr William John Boon	48 Alexander Street COLLAROY NSW 2097
Mrs Tiga Joan Wallman	11 Alexander Street COLLAROY NSW 2097
Mr Neville Alan Wayne Osborne	54 Alexander Street COLLAROY NSW 2097
Ms Bly Carpenter	14 Alexander Street COLLAROY NSW 2097
Andreas Lehr	20 Alexander Street COLLAROY NSW 2097
Mrs Kara Maree Champion	26 Westmoreland Avenue COLLAROY NSW 2097
Ms Jill Pioch	56 Alexander Street COLLAROY NSW 2097
Mr Geoffrey James Deacon	62 Alexander Street COLLAROY NSW 2097
John Anthony L'Estrange	17 Eastbank Avenue COLLAROY NSW 2097
Mr Ian Bruce Sanders	17 Alexander Street COLLAROY NSW 2097
Mrs Kristie Anne Hutton	19 Alexander Street COLLAROY NSW 2097
Mr Paul Robert Peill Hutton	19 Alexander Street COLLAROY NSW 2097
Mrs Barbara Mary Clarke	40 Alexander Street COLLAROY NSW 2097
Mr Robert O'Brien	1/1 Herbert Street MANLY NSW 2095

The following issues were raised in the submissions:

- *Amenity impacts in terms of noise and privacy;*
- *Traffic and parking;*
- *Location and character;*
- *Safety concerns;*
- *Density and Site Coverage, overdevelopment of the site;*
- *Wall Height, Side Boundary Setback, and Envelope;*
- *Permissibility and precedent;*
- *Consolidated impact from the adjacent lot boarding house development*
- *Financial impact on surrounding property prices;*
- *Tree Removal and impact on local biodiversity;*



- *Community Benefit and Use of Affordable Housing as short term holiday accommodation;*
- *Accessibility of development;*
- *Stormwater and Overland Flow*

The matters raised within the submissions are addressed as follows:

- **Amenity Impact - Noise and Privacy**

The proposed common area and balcony look directly over properties such as 9, 11, 13 and 15 Alexander street. The usage, elevation and sound projection from these areas will result in reduced amenity and privacy for these and other neighbouring properties and is inadequately addressed in proponent's reports such as the facilities proposed management plan.

Comment:

Noise and privacy impacts generally are a concern with any boarding house due to the short term nature of the tenancies and will depend to a large extent on how robust and well applied the Operational Management Plan for the premises is.

Alexander Street is a very narrow road which makes the inclusion of communal open space in an elevated position with the potential to accommodate twenty (20) residents at one time at the front of the development directly facing numerous residential dwellings a significant concern in terms of the suitability of this type of activity in this location. The use of this space in this location is considered likely to result in detrimental adverse impacts on the adjoining properties and is not supported.

- **Traffic and Parking**

Proposal has inadequate parking.

Currently street parking along Alexander St from approx. outside No. 10 to No. 22 at most times of the day and night has cars parked on both sides of the street. If a boarding house was to be developed at No. 18 there would most likely be an additional 5 to 10 cars for each boarding house resulting in an additional 10 - 20 cars parked on the street. These extra cars would take up any available street parking further up the street and would impact on available street parking for residents and the community who park in Alexander St to go to the beach, shops, restaurants, and park in the street to catch the B1 bus line in Collaroy.

The street is one of the steepest in Sydney and is very narrow. There are cars parked on the street from approx. No. 10 to No. 22 most times of the day and night and as a result, traffic cannot pass in a 2-way direction. Instead, cars must pull over and wait either at the bottom or top of Alexander Street or in driveways to allow 1-way traffic to pass. If more cars are parked in the street as a result of this development it will impact on traffic congestion, safety issues, frustration, and anger for residents and drivers. This will have a detrimental effect to the use of amenities at Collaroy shops, the beach, and residents of Alexander Street.

Traffic management on the street is already poor as Council and Northern Beaches Local Area Police command are no doubt aware with numerous major traffic incidents due in part to the narrow carriageway, steep incline as the street rises to the west and speeding traffic which already make ingress and egress to existing driveways hazardous. The consultant's report "Traffic and Parking Assessment" is also incorrect stating that there are existing speed humps - there are no raised humps in Alexander street only painted markings which would be better described as passive traffic calming devices



On bin collection days the garbage trucks hold up traffic in the street as no cars can pass either way mostly in the stretch of road outside No. 10 to No. 22 where most of the time cars are parked on both sides of the street. If there were to be an additional 10 - 20 cars parked on the street, longer traffic delays and congestion would occur and could affect traffic flow on Pittwater Road causing frustration, and anger to drivers and residents.

The traffic and parking issues and the issues of 30 residents in such a small local. it is a narrow street and recently when a truck lost control 11 cars were damaged, presently there are more and more incidents of road rage in this street.

Car, Bicycle, and Motor Bike spaces - The car, bicycle and motor bike spaces look very narrow on the plans and they adequate for their use.

Comment:

While the development provides adequate parking in accordance with the requirements of SEPP (ARH) in the form of six (6) spaces (which includes a disabled parking space) and no visitor parking, it is understandable that concerns relating to parking have been raised in nearly every submission, given how congested Alexander Street is in relation to on-street parking for most times of the day. Further, there is no allowance in SEPP ARH in relation to rooms with two (2) occupants, usually adults. The required parking rate is set per room. This development has the potential to accommodate twenty-one (21) adults who likely all own vehicles. An equivalent apartment building with 10 x one bedroom or studio units would require twelve (12) parking spaces (including 2 visitor spaces). As the development complies with the requirements of SEPP ARH in this regard and in relation to motorcycle and bicycle storage, this issue cannot form a reason for refusal.

While traffic generation has been assessed against the relevant guidelines as acceptable, issues have been raised by Council's Traffic Engineer in relation to site access and sight lines which have been deemed unacceptable. These issues are considered fundamental flaws in the proposal and do form a reason for refusal.

Issues with garbage collection trucks are noted. While the development will likely result in greater vehicular movements and even on-street parking given the tendencies for these establishments to charge extra for on-site parking, the issue with the garbage collection trucks is a matter beyond the scope of this assessment and requires a more specific assessment by Council's traffic section to establish whether changes to the parking within Alexander Street requires further restriction on bin day to prevent a full blockage of the street.

- **Location and Character**

Comment:

The proposed development for a boarding house is permissible within the R2 Low Density Residential Zone pursuant to WLEP 2011 and also pursuant to SEPP ARH. There are no exclusions applied to the location of boarding houses in areas where this form of development is permissible. Notwithstanding, these developments are required pursuant to Clause 30A of the SEPP to provide a design which is compatible with the character of the local area. In this case, the distinct character is identified as low density residential dwellings in landscaped settings consistent with WLEP 2011 and WDCP.

The proposed development with inadequate setbacks will result in an intensity of built form which is inconsistent with the controls shaping the future character of the area, and is considered an over-development of the site. The proposal results in significant non-compliances with a number of controls which are addressed separately. These include side boundary envelope, wall height,



and landscaped open space. The proposal is therefore found to be inconsistent with the surrounding residential character as it does not favourably relate to the design requirements and is considered to exhibit excessive building bulk and site coverage which does not protect the amenity of adjoining developments or the streetscape.

- **Safety Concerns**

The manager's room is at the back of the property, so he/she will be unable to perform his/her duties of keeping an eye on who enters the property. Also will not be easily found for queries or concerns from neighbours.

Comment:

Issues relating to the appropriate design of the development and the potential impacts on surrounding properties are discussed throughout this report. The location of the Manager's Room is not considered acceptable.

- **Density and Site Coverage, Overdevelopment of the Site, Bulk and Scale**

The current DCP for the area indicates that 40% is required and there appears to be limited justification as to why this non-compliance is acceptable.

The scale of the development is very large proportional to site size and is not in keeping with the existing houses in the street nor the residential low density built form and extensive garden areas of properties proximal to this proposed commercial boarding house. The applicant's consultant report "Statement of Environmental Effects Lot 9, 18 Alexander Street" states that the proposed development would be in harmony with the building around it and the physical impacts on surrounding developments is compatible. We contest these statements as this is a commercial, high density residential development incompatible with the surrounding single family, private dwellings.

The proposed boarding house developments appear excessive in bulk and scale, and are not in keeping with the existing modest residential character of development along Alexander Street. We therefore request that the development be revised to comply with Council's building envelope control.

Comment:

While the SEPP ARH provides for a maximum of twelve (12) boarding rooms on an individual site within the R2 low density residential zone, developments are also required to rely on the relevant LEP and DCP in order to inform an appropriate built form. The development results in a number of non-compliances with the built form controls including side boundary setback, landscaped open space and building envelope which are all controls that seek to manage building scale and appropriateness. Due to the development's non-compliance with these controls, the proposal is considered an overdevelopment of the site. This issue forms a reason for refusal.

- **Wall Height, Side Boundaries and Envelope**

Side Boundaries are also not compliant which impacts on neighbouring properties and sets a precedent for future development if approved.

The plans submitted and note that several nearby properties have been represented as 2 and 3 storey dwellings which is not the case. They are single storey dwellings with a garage underneath. I would suggest the plans are misleading



Comment:

Non-compliance with the relevant built form controls has been addressed within this report. The proposal is considered unacceptable in terms of its bulk and scale resulting from non-compliance with these relevant requirements.

- **Permissibility and Precedent**

If this boarding house is approved it will set a precedent such as for the adjacent Lot which is also proposed to be developed as a boarding house of similar scale. To all intents it is a backdoor strategy to get high density, commercial developments in a low density, residential zoned area. Both proposals should be considered together as it is the cumulative effects rather than the individual impacts from one development that the local community will be subjected to, noting also that is the same developer for both proposals.

Comment:

As detailed within this report, boarding houses are a permissible form of development in this location. The scale of the development is considered unacceptable in the context of the site and the developments' inconsistency with the relevant built form controls results in an undesirable form of development.

- **Consolidated Impact from the adjacent Boarding House development**

All issues identified are compounded by the proposal for a second boarding house on the adjacent block.

The development plans are also misleading as they have been submitted separately and do not show the sheer scale of the combined dwellings

Comment:

While the subject development has been lodged as a separate application to the adjoining Lot 8, which also proposes a boarding house containing twelve (12) rooms, the potential impact of two (2) boarding houses within such close proximity does cause concern in relation to the impact on the character of the area and also the consolidated or cumulative impact from two developments, which when combined would have the capacity to accommodate 22 boarding rooms (up to 44 occupants) with an additional 2 rooms for Managers accommodation.

- **Financial Impact on surrounding Property Prices**

Buyers who want to live in a R2 low density zone, don't want to share that with one property that holds maximum 30 people/tenants.

Comment:

Property values are not a relevant consideration under Section 4.15 of the EP & A Act, 1979

- **Community Benefit and Use of Affordable Housing as short term holiday accommodation**

There is an apartment block at 1161-1171 Pittwater Road, Collaroy "Bellagio by The Sea" that was approved for short term rental accommodation (minimum 3 months) a few years ago, much like the rules of short-term rental for boarding houses. However, these apartments are now advertised for holiday lettings and available for minimum 1-night stays, creating noise from holiday makers and disruption to other residents. I am concerned that the proposed boarding houses should they be poorly managed could become holiday lettings or used for other renters other than new generation tenants and cause negative detrimental impacts to the residents in



Collaroy. This has happened with the Bellagio apartments and as a comparable situation could happen to the proposed boarding houses also

Comment:

A variety of persons are likely to reside in the boarding house and for a variety of reasons. The occupants will most likely represent a cross section of the community. There is no evidence to suggest that boarding house residents will be more likely to be responsible for adverse social impacts in the area.

Further, were the application to be approved, an Operational Plan of Management (PoM) for the boarding house would form part of the consent. This PoM would address residents behaviour (including smoking, noise, visitors, occupancy of boarding rooms, use of outdoor areas, drugs and alcohol) and require compliance with the 'House Rules' to ensure the amenity and safety of the neighbourhood is not adversely impacted.

In the event that resident behaviour disturbs local amenity or raises safety concerns, the Boarding House Manager would be responsible for implementing the PoM and addressing compliance with the House Rules in accordance with their lease agreement. Beyond this, it would be appropriate for the Police to be notified.

Boarding houses are designed for minimum three (3) month stays and are not backpacker or hostel accommodation. A minimum three month stay can be enforced as a condition of consent should the application be approved but is implied by any approval for a Boarding House pursuant to SEPP ARH. All of these rooms are able to accommodate two people. The total maximum occupancy would be twenty (20) boarding residents and up to two (2) people in the on-site managers unit. There is no ability for the boarding rooms to contain any more beds than those approved.

- **Accessibility of Development.**

Disabled Car Parking - there is provision for a disabled car space, however, how do people with disability access the boarding house that is accessed only by stairs.

Comment:

The parking level provides a stair platform lift which would require the user to exit the site via the driveway which does not provide any protected access and re-enter the site from the eastern boundary. Once at Level 1, the occupant will not be able to access the rear pool area of the site as the access path contains stairs which would prevent this. The accessible access to the development has not been well resolved and is considered flawed in its design directing any person who would need the stair lift into the driveway access and out into the public domain to access the building.

- **Tree Removal and Impact on Local Biodiversity.**

There are significant tall trees over 5 metres on the property that would be affected by both developments on both lots. It doesn't look like there is very much deep soil or open space surrounding them and they could die if the development applications are approved because there is not enough adequate light for them, and structures will be built too close to the tree roots.

There are numerous reports of protected, endangered and vulnerable species in the area including but not limited to the eastern bandicoot and powerful owl <https://www.environment.nsw.gov.au/threatenedspeciesapp/>. We contest the applicant's assertion that this proposal does not impact threatened species.



Comment:

The application seeks to retain most of the significant trees on the site, including Tree 2 located right on the boundary with Lot 9 which is identified as a "*Phoenix canariensis (Palm)*" which is approximately 5m in height. It should be noted that Trees T4, T5, T6, T8 and T9 are located on adjoining properties and are retained.

- **Stormwater and Overland Flow**

The potential for stormwater issues and flooding within Alexander Street occurring as a result of the natural watercourse to the rear of the site, together with the limited pervious area provided on each of the allotments.

Comment:

This issue was reviewed by Council's Development Engineer and is considered unsatisfactory. This issue forms a reason for refusal.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>SUPPORTED</p> <p>The proposed building consists of a Boarding House containing individual boarding rooms being over two (2) stories located above car parking. The building is provided with a Manager's room and a common room with common open space located at the front of the building with vehicular and pedestrian access is via Alexander Street.</p> <p>In relation to building code compliance being achieved, no objections subject to conditions.</p>
Environmental Health (Industrial)	<p>SUPPORTED</p> <p>In conjunction with DA2020/0205, this proposal is to construct two boarding houses side-by-side. Referring to the comments made regarding the first development application, we assessed primarily noise, Acid Sulphate Soils and external lighting and applied some conditions using the information that was provided in the application. The aspects of Acid Sulphate Soils and external lighting need no further investigation beyond what was stated in the DA2020/0205 Environmental Health Referral, however noise needs to be re-evaluated in light of the additional occupants.</p> <p><u>Acid Sulphate Soils</u></p> <p>Class 5 Acid Sulphate Soil on the north-western corner of the property. Excavation on this lower part of the property is unlikely to disturb acidic soils in a harmful way, no conditions or further information will be required of the applicant.</p> <p><u>Noise</u></p> <p>The cumulative effect of noise from communal areas is difficult to predict due to complexities such as absorption and reflection of sound</p>

Internal Referral Body	Comments
	<p>waves in an open semi-vegetated, semi-built environment. For Council to effectively regulate what is called communal noise, we would consider using "noise nuisance" provisions of the <i>Protection of the Environment Operations Act 1997</i> and associated noise regulations. Given the residential nature of this proposed development, with the added structure of a Plan of Management, noise generated by human voices in the outdoor communal areas is predicted to be typical/residential -even if we consider a high-density high rise development, noise from the use of communal areas is rarely an issue that is seen by Council. State laws and guidelines generally prohibit excessive noise past 10 pm in residential areas, this is most effectively regulated by Police who have better access to behavioural control measures/powers and therefore it is not deemed necessary to place conditions that limit the sound pressure levels of human activity in this instance.</p> <p><u>External Lighting</u> Any external lighting (e.g. in the outdoor communal area) should be directed away from surrounding residences.</p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>NOT SUPPORTED</p> <p>The application fails to provide sufficient landscaped open space consistent with the requirements of Part D1 Landscaped Open Space and Bushland Setting. The proposed development is not supported due to its uncharacteristic site treatment which is inconsistent with the surrounding properties,</p>
NECC (Development Engineering)	<p>NOT SUPPORTED</p> <p><u>Stormwater:</u> Insufficient information has been provided to demonstrate compliance with Council's Warringah Onsite Stormwater Detention (OSD) Technical Specification. The Applicant is required to submit the DRAINS model in accordance with the Specification.</p> <p><u>Driveway:</u> Insufficient information has been provided with regard to the proposed access driveway. The Applicant shall provide a long-section (including chainages, levels and gradients) of the proposed access driveway across the road reserve to the proposed carparking facilities and demonstrate compliance with AS2890. The driveway shall incorporate one of Council's standard vehicle crossing profiles. Any transitions to the driveway levels/gradients are to occur within the development site.</p> <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p> <ul style="list-style-type: none"> • Vehicle access for the development in accordance with clause C2 Traffic, Access and Safety. • Stormwater drainage for the development in accordance with

Internal Referral Body	Comments
	clause C4 Stormwater.
Strategic and Place Planning (Urban Design)	<p>NOT SUPPORTED</p> <p>The proposal in its current form cannot be supported for the following reasons:</p> <p>General</p> <p>The proposed development of affordable rental housing in the R2 zone of Collaroy Basin locality cannot be supported. The following comments consider the two applications lodged for the site and the relationship of the adjacent buildings.</p> <p>Character/Context</p> <p>The locality is predominantly R2 low rise residential in proximity to B2 local centre. The proposed development of Lots 8 and 9, 18 Alexander Street Collaroy, I believe, need to be reviewed and considered side by side given the context of the development and the resulting adjacencies of the two buildings and the broader contextual relationship. As such comments address both buildings generally where not specifically addressed as either Lot 8 or Lot 9 for the purposes of detailed planning and design assessment as they relate to each building.</p> <p>Site Response/Lot Consolidation</p> <p>It is acknowledged that the design of the two sites have a determined relationship to each other, however several issues arise when considering the development(s) in the broader context of the streetscape, character and bulk and scale. Whilst two separate applications and Lots the considered adjacency and design elements that respond to the streetscape can almost be read as a single development; entry staircases to the Lots from the street sharing a zero lot adjacency.</p> <p>Ultimately though the development will be read from a broader streetscape lens and effort to maintain similar characteristics and aesthetics, modulation and articulation are generally supported. However the intensity of the two sites developed simultaneously and the considered adjacency of the building to the R2 low density sites to the west and east of the two lots will be significantly impacted by the intensity of the development. Strategies that look to modularise each lot, with the potential for pavilions that bookend a central community landscape d open space is highly encouraged. As such the current intensity and configuration of the site planning cannot be supported.</p> <p>Design/Aesthetics</p> <p>Volumes, proportion and ratio of the elevation and material treatments have merit and can generally be supported. Whilst not identical and</p>

Internal Referral Body	Comments
	<p>providing difference across the whole elevation of the two lots side by side there is an inherent bulk and scale issue with the minimum 0.9m side setback almost of inconsequence. Similarly the two entry stairs to the front elevation sharing the central boundary adds to the perceived bulk and scale of the development. No through site vistas to green space between buildings at the western and eastern boundaries is compounded by the zero lot alignment of the entry stairs. As such the development presents as a large RFB of design merit but overscaled somewhat.</p> <p>Boundary The opportunity to consolidate at a more finer grain detail should be further explored. Elevations that show adjacent relationships in terms of volume scale articulation and modulation are acknowledged. However the two lots adjacent developed simultaneously may share a relationship in terms of aesthetics and materials but requires further interrogation as to how the adjacent properties meet at the central boundary between Lots 8 and 9 does not necessarily need to be defined by a boundary fence. The opportunity to develop the site considering the lots as a single development would reveal further finer grain detail possibilities for this central area. Stairs on Boundary Fence – zero lot alignment Removal of Boundary fence between Lot 8 and 9</p> <p>Internal Fences</p> <p><u>Lot 8</u></p> <p>The level 1 floor plan shows fences internal to the boundary dividing units Manager, Bed 7 and Bed 6 annotating this as private open space (POS).</p> <p>The value of these POS's at the size they are in terms of both orientation and amenity is somewhat diminished. Would there be better value in treating this with a more refined landscape response potentially as a communal garden again across the two lots. It is noted that currently the orientation is not optimal with overshadowing covering the garden almost all of winter. Further investigation into how this garden may provide opportunities to create a consolidated backyard with Lot 9 incorporating the pool should be tested in more detail (see swimming pool comments below).</p> <p>The issue of solar access to the rear courtyard could be resolved by stepping the building back at the upper level to allow winter sun access to the rear yard all year round. Shadow diagrams demonstrating the winter azimuth and clear solar access to the rear garden should be demonstrated as explored through the deletion of part of the top storey to the rear of the site(s) to optimise the winter sun azimuth.</p> <p>Hard Surfaces</p>

Internal Referral Body	Comments
	<p>Paths at boundaries to the east show hard surfaces built to the boundary line, including stairs and egress routes similarly with hard surfaces built to the boundary. Refer landscape officer comments for further commentary on required Landscaped Open Space.</p> <p>Through Site Green Links The fact of the proposed two developments being lodged together (date etc) suggests the strategy for a development of two lots consolidated allowing for a greater developable footprint whilst remaining numerically compliant.</p> <p>If the lots were consolidated the development would be outside the allowable zoning effectively taking on the typology of an RFB. As such the development would be significantly reduced in bulk and scale should the development application have been lodged as a consolidated site. A simple cut and paste collage of the two lots developed when viewed from Alexander Street demonstrates a significant bulk and scale issue. This is clearly demonstrated such that upon completion of the two sites there would be no through site green link to view aspects beyond the façade.</p> <p>As previously mentioned there is no doubt the development would read as a large single development. The planning regime may have merit if further consideration to the consolidation of the lots and a more fine grain and considered response to the site as a whole is explored. This may reveal opportunities for a more considered response to the context. At present if the two lots were developed side by side as is the resulting outcome would not be supported.</p> <p>There is inherent merit in the design response in terms of materiality and aesthetics, even to the switching of materials and colours so as not to be read as the same development or a cookie cutter response but with quite distinct characteristics to each. This aspect of the proposed development is supported. However a more fine grain response and consideration of neighbouring amenity, site orientation in terms of solar gain throughout the year and clearer through site links through greater side setbacks that provide vegetation and the opportunity for established planting is highly recommended.</p> <p>Internal Planning There are two instances (Lot 8 – Bed 9 and Lot 9 – Bed 7) where Door circles cross over into the turning circle of another door coinciding with the front entry door to the unit(s) and the internal bathroom door to the unit(s). The circulation in these areas is not ideal.</p> <p>1. SEPP Affordable Rental Housing (ARH) 2009</p> <p>Clause 29(2) Wall Height Maximum Storeys and Rear</p>

Internal Referral Body	Comments
	<p>Setbacks</p> <p>The following controls under the Affordable Rental Housing SEPP are not achieved;</p> <ul style="list-style-type: none"> a. Maximum wall height – 7.2m b. Rear setbacks – 6m <p>Wall height exceeds the 7.2 metre restriction on the northern wall/elevation zone of the building.</p> <p>A reduction in height of building at the rear of the site (south) t</p> <p>Clause 30 A – Character of Local Area</p> <p>The design of the two developments demonstrates merit in the design approach. There are several tactics used across the two developments by adjacent structures up to boundaries; the open stair access to level 1 and what will be a greater central staircase to each development, which will undoubtedly have the impact of a much larger RFB type development.</p> <p>The applicant is encouraged to investigate smaller modules/pavilion type strategies across the two sites to reflect the low density character of the area.</p> <p>2. Built Form Controls:</p> <p>WLEP 2011</p> <p><i>Aims of the LEP in relation to residential development, are to:</i></p> <ul style="list-style-type: none"> (d) (i) protect and enhance the residential use and amenity of existing residential environments, and (ii) promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and (iii) increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah. (f) (i) achieve development outcomes of quality urban design, and

Internal Referral Body	Comments
	<p><i>(iv)ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment, . . .</i></p> <p>The aims of the zone, to ensure residential environments are in harmony with the surrounding single and double storey houses, have not been achieved.</p> <p>The proposed bulk and scale of the development needs to be in keeping with the local character, bulk and scale, in sympathy the neighbouring houses.</p> <p>The western and eastern boundary setback of 0.9 should be increased to 3m to allow for deep soil planting zones. This will assist to achieve a balance of open space whilst addressing the non compliance of the building envelope control. A considered response to the site coverage and appropriately distributed open landscaped space is required to achieve a development that is more in sympathy with the surrounding neighbourhood and low rise residential character of the area..</p> <p>WDCP 2011</p> <p>B1 – Wall Heights</p> <p><i>Requirements</i></p> <p>1. <i>Walls are not to exceed 7.2 metres from ground level (existing to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).</i></p> <p>There are missing dimensions on the drawings demonstrating wall heights of 7.2 metres have not been breached. Refer cross section 2 on drawing DA200.</p> <p>B3 – Side Boundary Envelope</p> <p><i>Requirements</i></p> <p>1. <i>Buildings on land shown coloured on the DCP Map Side Boundary Envelopes must be sited within a building envelope determined by projecting planes at 45 degrees from a height above ground level (existing) at the side boundaries of: 4 metres</i></p>

Internal Referral Body	Comments
	<p>There are no drawings that demonstrate compliance with this control however a visual assessment of the drawings clearly indicates that the control is breached by the compounding issues of height and minimal setbacks.</p> <p>B5 – Side Boundary Setbacks</p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> • To provide opportunities for deep soil landscape areas. • To ensure that development does not become visually dominant. • To ensure that the scale and bulk of buildings is minimised. • To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained. • To provide reasonable sharing of views to and from public and private properties. <p>The creation of a 2-3 m setback to the western and eastern boundary will assist to create deep soil planting zones. Refer Landscape referral for a comprehensive analysis of Landscaped Open Space and recommendations for deep soil planting to achieve the required controls.</p> <p>B7 Front Boundary Setbacks</p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> • To create a sense of openness. • To maintain the visual continuity and pattern of buildings and landscape elements. • To protect and enhance the visual quality of streetscapes and public spaces. • To achieve reasonable view sharing. <p><i>Requirements</i></p> <ol style="list-style-type: none"> 1. Development is to maintain a minimum setback to road frontages. 2. The front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter

Internal Referral Body	Comments
	<p><i>boxes, garbage storage areas and fences.</i></p> <p>It is assumed the front boundary setback is compliant. No dimensions on the drawings.</p> <p>B9 – Rear Boundary Setbacks</p> <p>1. <i>Development is to maintain a minimum setback to rear boundaries.</i></p> <p>2. <i>The rear setback area is to be landscaped and free of any above or below ground structures</i></p> <p>Exceptions Corner Allotments on Land Zoned R2 or R3</p> <p><i>On corner allotments for land zoned R2 Low Density Residential or R3 Medium Density Residential, where the minimum rear building setback is 6 metres, the rear building setback does not apply.</i></p> <p>It is assumed the rear boundary setback is compliant. Pool in the setback zone will have significant impacts on the neighbouring properties as a result of the increased intensity of the site.</p> <p>D1 Landscaped open space and bushland setting</p> <p><i>Requirements</i></p> <p>1. <i>The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and Bushland Setting. To measure the area of landscaped open space:</i></p> <p>a) <i>Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;</i></p> <p>b) <i>The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;</i></p> <p>c) <i>Landscaped open space must be at ground level (finished); and</i></p> <p>d) <i>The minimum soil depth of land that can be included as landscaped open space is 1 metre.</i></p>

Internal Referral Body	Comments
	<p>Required percentage of landscaped area has not been achieved (40%). Deck structures and impervious finishes are not to be calculated as Landscape open space. Refer Landscape comments.</p>
Traffic Engineer	<p>The proposal is for the addition and alteration to construct 2 storey affordable boarding house with 13 rooms at Lot 8, 18 Alexander St, Collaroy.</p> <p>Traffic:</p> <ul style="list-style-type: none"> • Construction Traffic: Because 3T load limitation of Alexander Street, narrow street and parking demand Demolition and Construction Traffic Management Plans are required. • Traffic generation: Negligible and no concern. Public transport available <p>Parking:</p> <ul style="list-style-type: none"> • Vehicles: As per SEPP 0.5 space / boarding room and Max. 1 space for staff/ manager who is also a resident. <p>Accordingly</p> <ul style="list-style-type: none"> - 12 boarding rooms require 6 space - 1 Manager room require 1 space. <p>The site is proposing 7 spaces including 1 space for manger who is a resident and an accessible space.</p> <ul style="list-style-type: none"> • Motorcycles: <ul style="list-style-type: none"> - As per SEPP 1 space for every 5 boarding room. - The site is proposing 3 spaces • Bicycles: <ul style="list-style-type: none"> - As per SEPP 1 space for every 5 boarding room. - The site is proposing 3 spaces <p>Parking requirements satisfied.</p> <p>Access and circulation swept paths:</p> <ul style="list-style-type: none"> • Access: <ul style="list-style-type: none"> - The site has poor visibility from the street to the parking spaces in the rear. As such, there needs to be a passing bay opportunity compliant with AS2890. This will require a minimum driveway width of 5.5m for the first 6.0m within the property boundary. Waiting/queuing on Council's Road is not acceptable. - The carpark is not compliant with AS2890. Particularly the requirement for a minimum 1.0m clearance at blind aisles. - AS specifies a maximum ramp grade of 1:8 over 6m behind the property boundary to maintain the level position. But because of the site constraints, design only provides 4m to satisfy the front overhang of B99 vehicle. It may be OK by considering majority of vehicles at the

Internal Referral Body	Comments
	<p>development is B99 which have standard length of 5.2m and site constraints. - Vehicular crossing and driveway should comply with AS2890.</p> <p>• Swept paths Ensure the turning paths should not encroach with parking spaces. Car park arrangement should be altered to ensure compliance with AS2890.1</p> <p>Pedestrian safety: Concern is raised regarding compliance with AS2890.1</p> <p>Servicing: On-street waste collection is deemed acceptable.</p> <p>Recommendation: Council cannot support the proposal in its current form due to the car park layout.</p>
Waste Officer	<p>NOT SUPPORTED <u>Specifically:</u></p> <ul style="list-style-type: none"> • The temporary bin holding bay proposal is unacceptable. • This temporary holding bay area is shown as turfed and is counted in the landscape area. There is even a tree shown in the middle of it on one diagram. • Bin holding bays must have hardstand floor (eg. concrete) and must screen the bins from view from the street (eg. walled to an appropriate height to obscure the bins from view). • The temporary holding bay area shown on the plans cannot be both a bin bay and a turfed landscape area. • Should the applicant choose to modify this area to comply with the bin storage bay requirements please bear in mind that the proposal must also meet the access criteria - that being: • access to the bin holding bay must via a separate path to the vehicular driveway. <p>For the applicants information - Council will not accept any proposal for the bins to be placed at the kerbside for collection. Council will provide a 'wheel out/ wheel in' service to the property.</p> <p>For the purpose of determining the exact number of bins required to be accommodated at the property, it is assumed that the manager will be living onsite in the "managers room".</p> <p>12 rooms + managers residence</p>



Internal Referral Body	Comments
	<p>Proposal will be required to store the following bins:</p> <ul style="list-style-type: none"> • 5 x 240 litre garbage bins • 6 x 240 litre recycle bins • 1 x 240 litre vegetation bin

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding houses



Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

*"(a) is wholly or partly let in lodgings, and
(b) provides lodgers with a principal place of residence for 3 months or more, and
(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that
accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means *"a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".*

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	Consistent The site is located within the R2 Low Density Residential Zone and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. Note: Accessible area means land that is within: (c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.	Consistent The site is located within the R2 Low Density Residential zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.



(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable. The site is located within the Sydney region.
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Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development constitutes the construction of a boarding house, as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applied in WLEP 2011 or WDCP	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Floor space ratios are not applied in WLEP 2011 or WDCP	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum	N/A	N/A

	<p>floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>		
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The building height limit under WLEP 2011 is 8.5m.	Compliant
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The sites surrounding the development are single dwelling houses which predominantly provide a single driveway crossing to one side of the site with natural landscaping infilling the rest of the frontage.	<p>Inconsistent</p> <p>While the plans submitted indicate that the frontage will consist of a landscaped area measuring approximately 40m², due to nature of the development being a boarding house and not a single dwelling, the site requires a passing bay in order to provide compliant vehicle access to the site, more than half of this area would be required to be hardstand.</p> <p>The extent of hard paving required to satisfy the Traffic requirements would result in the front setback treatment of this</p>

			development being incompatible with the adjoining low density development with a single driveway access to a garage or carport structure and a balance of soft landscaping.
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The primary communal living area within this development is located at the front of the building adjacent to the communal terrace. This space is north facing and will benefit with direct sunlight access into this area for more than 3 hours a day.	Consistent
(d) private open space	if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20m ² with a minimum dimension of 3.0m is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m ² with a minimum dimension of 2.5m is provided adjacent to that accommodation,	The development includes areas which may be used for private open space at the rear of the site for boarding house occupants and for the boarding house manager.	Compliant
(e) parking	if: (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and	The proposed development is not by or on behalf of a social housing provider and is therefore required to provide 0.5 parking spaces for each boarding room and 1.0 space for the boarding house manager.	Compliant

	<p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(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, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>The development for 12 rooms plus a managers room requires seven (7) spaces.</p> <p>Seven (7) parking spaces are provided.</p>	
(f) accommodation size	<p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>The proposed development provides twelve (12) double boarding rooms and a managers room all with more than 16m² of gross floor area.</p>	Compliant
	<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>Each boarding room provides a private kitchen and bathroom facilities.</p>	Consistent

	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Not Applicable	N/A
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Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	The development provides a single common room at Level 1 measuring 17.9m ² . In addition, there is an adjacent open space terrace measuring 20.2m ² .	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	The floor areas of each boarding room do not exceed 25m ² .	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	The application was accompanied by an Operational Plan of Management which identifies that each lodger will be provided with a 'Resident Information Brochure' as part of their lease which states that no more than 2 adult residents may occupy any room.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each boarding room contains independent cooking facilities. In addition, the common room at Level 1 provides communal cooking facilities.	Consistent
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The boarding house has a maximum capacity of twenty four (24) lodgers within twelve (12) boarding rooms. A separate managers apartment is identified on Level 1 at the rear of the property.	Consistent While the proposal provides the required Managers apartment, the location of this space at the rear of the site away from the entrance of the building and completely disconnected from the common open space areas is not considered a desirable outcome.
(g) if the boarding house is on	The proposed boarding house is	Consistent



land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	located within a residential zone (R2 Low Density Residential). Accordingly, this clause does not apply.	
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	As the development includes ten (10) boarding rooms, there is a requirement for space to accommodate two (2) bicycle and two (2) motorcycles. The development includes space for three (3) bicycles and two (2) motorcycles.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	This clause does not apply.	N/A

Clause 30AA: Boarding houses in Zone R2 Low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Comment:

The proposed development is located within an R2 low density zone and provides a maximum of twelve (12) boarding rooms. The proposal is consistent with this requirement.

Clause 30A: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- *The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.*

Comment:

The site is located within a low density residential street which contains single dwellings which are



either single storey or two storeys, some with parking below where the site contains a significant fall in topography to accommodate this. The predominant character of the street which contains a varied range of building ages and styles is of one and two storeys within a landscaped setting providing adequate separation from the neighbouring site.

The development consists of three storeys with a large open terrace overlooking the street. The terrace itself does not make this development incompatible with the character of the surrounding area, the lack of building setback/separation, building envelope and landscaped open space non-compliances results in a building form which will dominate this part of the street. The impacts of this development are compounded by the potential for an equally out of scale second boarding house being built immediately adjacent to this one on Lot 9.

While that proposal is the subject of its own separate application to be considered on its merits, the consolidated impact of having two (2) excessively large commercial developments which significantly fail to acknowledge the characteristic scale of development in this low density residential zone is considered severe.

In this regard, it is considered that the scale of the development is incompatible with the streetscape and inconsistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

While the architectural style of the building presents an aesthetically acceptable form, the severe lack of landscaped setting and setbacks for this form of multi unit housing is significantly under done and emphasizes the uncharacteristic scale of these structures. The resulting building form is excessively bulky with no generous breaks that would reasonably accommodate sufficient landscaping to break up the scale of the built form.

In this regard, the development is considered to be incompatible with the scale of surrounding development and inconsistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*

Comment:

There are no trees retained within this site. The application in its photo montage places significant reliance on the trees and vegetation on adjoining sites which will in reality will provide little relief from the extent of building proposed. These images are considered a misrepresentation of the true amount of vegetation on the site and does not compensate for the extreme lack of landscaping provided around the development. The lack of space for meaningful landscaping will result in a lack of commensurate vegetation suitable of screening and softening the building form in the immediate or long term.

In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance and is inconsistent with the third principle.



- *The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.*

Comment:

The proposed building by virtue of its bulk and scale and lack of landscape setting fails to sympathetically reflect the form of buildings within the street. While elements of the architecture are considered desirable, on balance the overall building form fails to successfully integrate within this setting.

In this regard, the development is considered to be inconsistent with the fourth principle.

The above principles were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the Development Potential of Surrounding Sites

The lack of separation from the adjoining sites (nil setback to the west and 0.45m to the east) for a development that provides a medium density scale of accommodation is considered to adversely impact the potential of the surrounding sites. Instead of adequate setbacks reflective of multi unit housing being accommodated within the development site, the proposal is reliant on the existing pattern of setbacks and landscaped settings on adjoining single dwelling properties to offer a level of privacy and separation for noise. The development fails to provide suitable setbacks for this form of development (4.5m setback for multi unit housing) and is considered unacceptable in this regard.

Privacy

The development includes an elevated common open space terrace at the front of the site which will centralise social clustering of the occupants in a location where they will have vantage point into multiple dwellings to the north and to the west. The site also includes a main access pathway located with a nil setback along the western boundary and individual balconies facing directly into the eastern property. This pathway is elevated more than 1.8m above the existing ground level of the adjoining site with no opportunity for any landscape planting to be provided.

Overshadowing

As the site is oriented north-south, the proposed building form will result in additional overshadowing in the morning to the property to the west and in the afternoon to the east.

Noise

While the use of the site as a boarding house is permissible within the zone, the site as proposed to be



developed provides a number of departures from the development controls which seek to guide the future redevelopment of properties in this location. The required setbacks for the site are 0.9m which would generally apply to a single dwelling house. The proposed development is identified as multi unit housing which would otherwise require a side setback of 4.5m.

The proposed basement area seeks a 100% variation on the side setback along the western extent of the undercroft section and 56% variation on the eastern side of the site. As the building form provides no area for landscaping within the side setback area of the development there is no opportunity to incorporate characteristic landscape planting along the boundary of the site to support separation of the site with the neighbour.

Concern is raised that the exposed common open space terrace which offers no adequate screening or protection for neighbouring properties will become a source of nuisance and complaint to Council in the future. This area should not be placed to benefit the occupants of this boarding house at the expense of the permanent and established dwelling which it will adversely impact.

Conclusion to Character Assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is incompatible with the character of the local area and surrounding wider locality.

This matter warrants the refusal of the Development Application.

Conclusion

The proposed development is not supported.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1075865M dated 26 March 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Concession Target Pass
Energy	45	45

A condition will be included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate should the application be supported.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:



- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	No

Detailed Assessment

6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from



a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

(c) the development will not impact on or affect the existing subsurface flow conditions.

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. The application has been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised objections to the proposed development as *"the overland flow report does not adequately demonstrate that no adverse impact to the adjoining property."*

Therefore, Council is not satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

Warringah Development Control Plan

Built Form Controls

Built Form Control - R2 Low Density Residential	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	8.6m	19.4%	No
B3 Side Boundary Envelope	East - 4m	3.3m breach	N/A	No
	West - 4m	3.1m breach	N/A	No
B5 Side Boundary Setbacks	East - 0.9m	Basement - 0.4m Level 1 - 0.9m Level 2 - 0.9m	56% Nil Nil	Inadequate setback for multi unit housing Refer to detailed discussion
	West - 0.9m	Basement - 0.9m Level 1 - Nil to walkway 1.2m to face of building Level 2 - 1.2m	Nil 100% Nil Nil	Inadequate setback for multi unit housing Refer to detailed discussion
B7 Front Boundary Setbacks	6.5m	6.5m	Nil	Yes
B9 Rear Boundary Setbacks	6m	6m	Nil	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (232.52m ²)	19.8% (115.2m ²)	50.5%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	No	No
B3 Side Boundary Envelope	No	No
B5 Side Boundary Setbacks	No	No
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	Yes	Yes
C4 Stormwater	No	No
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	No
D1 Landscaped Open Space and Bushland Setting	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	No	No
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	No	No
D15 Side and Rear Fences	No	No
D20 Safety and Security	No	No
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The proposed development does not provide compliant wall heights with the development seeking a wall height of up to 8.6m (19.4% variation).

Merit consideration:



With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

Given the size of the building footprint and the length of the building facade which does not comply of over 17m, the consolidated impact of the development from surrounding developments will be very apparent. The development provides no adequate relief of the wall height and will present a significant building mass to the neighbouring properties.

- *To ensure development is generally beneath the existing tree canopy level*

Comment:

The development is below the maximum building height for the site and is under the tree canopy.

- *To provide a reasonable sharing of views to and from public and private properties.*

Comment:

There are no views identified that will be impacted by the proposed development.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The proposed development will create a significant impact on the adjoining and nearby properties. The scale of the development is considered inconsistent with the character of dwellings in this location.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

While the proposed development has provided some subtle stepping in the building form, the overall site coverage results in building sections which extend beyond a reasonable footprint. The extent of excavation while not excessive could be reduced with a compliant site coverage.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

No objection is raised to the proposed roof pitches.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.



B3 Side Boundary Envelope

Description of Non-compliance

The proposed development in order to maximise internal floor area within the building envelope to gain the maximum number of rooms possible, has not provided any stepping of the large building facade to the sides of the building form consistent with the intent of the side boundary envelope requirement. As a result the development provides non-compliances on both the eastern and western facades of the building of up to 3.3m and 3.5m respectively.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposed building form is considered to fail this requirement. The development provides totally inadequate setbacks to both boundaries resulting in a scale of development that is not envisaged by the built form controls that are in place to guide the future character of development.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

No adequate spatial separation is provided between the site and the neighbouring properties. The development effectively contains twelve (12) individual dwellings with one (1) main area for congregating at the front of the site. Privacy to surrounding properties is severely compromised as a result.

In terms of how the building form relates to the development proposed on Lot 9, both building forms propose large wall masses in excess of 8m with less than 2.5m separating these two storey structures measured wall to wall. The areas between the two sites provide the primary pedestrian access through the development and contains a number of windows. There will be limited solar access to these areas as a result and given the elevated walkways of both developments have a nil setback to the boundary will offer zero amenity or privacy.

- *To ensure that development responds to the topography of the site.*

Comment:

The development incorporates a partially excavated basement structure below two levels of accommodation. While the design includes some stepping at the centre of the site, this response is not considered sufficient given the length and excessive site coverage of the building form in total.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning



and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B5 Side Boundary Setbacks

Description of Non-compliance

While the subject site is located within the R2 Low Density Residential zone which would ordinarily require a side boundary setback of 0.9m, the proposed development is multi unit housing which would normally be contained within a zone which contains controls suitable for that form of building type. Accordingly, the setbacks which this development should be considered against would be 4.5m.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for deep soil landscape areas.*

Comment:

The siting of this development provides no opportunity for the inclusion of deep soil landscaping within the side setbacks of the site. The basement/undercroft area extend to up to 0.45m from the eastern boundary and 0.9m to the western boundary. The development also includes a nil setback to the elevated access pathway along the western boundary of the site which is the main pedestrian access into the building and to the rear of the property. There is no meaningful deep soil planting to the western side of the building footprint and there is only a small area measuring 37m² on the eastern side at the front of the site.

- *To ensure that development does not become visually dominant.*

Comment:

The development relies heavily on the trees and vegetation located on the adjoining properties to the west and the south to provide any relief to the three storey building form. The building will not provide any substantive landscape plantings to either side of the building to soften the appearance of the development or provide any sense of separation.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The uncharacteristic and non-compliant building form seeks substantial variations to the side setback, building envelope and landscaped open space requirement. All of these controls seek to control bulk and scale and building density on sites. The proposed significant variations to these controls reinforces the developments inconsistent and uncharacteristic bulk and scale.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The proposed development provides insufficient setbacks at all levels of the development. The excavated basement is between 0.45m and 0.9m from the boundary and the first and second floor levels provide 1.2m to the west and 0.9m to the east. The primary common open space area is located at the front of the site and will create real and perceived impacts on the visual



and aural privacy of surrounding properties.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

There are no views identified which will be impacted by the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C2 Traffic, Access and Safety

Council's Traffic Engineer has reviewed the proposed development and advised that the parking and access is unsatisfactory. The site requires a passing bay in order to satisfy the relevant Australian Standard which is not incorporated into the design.

C4 Stormwater

The application has been assessed by Council's Development Engineer and insufficient information has been provided to satisfy the requirements of this control. Details of the required information is provided under the Development Engineering referral comments.

C9 Waste Management

The application has been assessed by Council's Waste Management section and is unacceptable.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The development is required to provide 40% of the site area as compliant landscaped open space. The proposal provides 19.8% calculable landscaped open space which is significantly short of the required area. In addition, the development identifies individual privatised private open space at the rear of the site adjoining Bedroom 6, 7 and the Managers residence which separates this space into 3 individually fenced areas.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The plans indicate an area measuring approximately 40m² of landscaped open space within the front setback of the property. Unfortunately, this landscaping cannot be relied on as the development will require a passing bay to be accommodated within the first 6.5m of the site in order to satisfy the traffic and parking requirements.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The Arborist report submitted with the application indicates that there are only 2 trees identified on the survey of both Lot 8 and Lot 9 which will be removed, one of those has already been removed. None of the trees identified for retention will benefit this lot.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

As identified within this report, the only substantive area of landscaped open space which is not likely to be compromised by the parking and access is located within the rear of the site. This area is conflicted as it is also identified as 'private open space' which has been sectioned off for the Managers residence and Bedroom 6 and 7. Given that these are designed to serve as private open space, it is unlikely to contain any significant vegetation.

- *To enhance privacy between buildings.*

Comment:

The proposed building form and site layout makes no allowance for any landscaping along the sides of the development to enhance the building form or provide any form of screening or separation from adjoining properties.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The only available space for the occupants outside their rooms is the common room and adjacent terrace. There are no other areas available to the occupants which would be available at ground level for recreational activities.

- *To provide space for service functions, including clothes drying.*

Comment:

The site does not provide sufficient space for the requisite service functions including adequate bin storage.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The proposed development has not provided adequate management of stormwater. This issue forms a reason for refusal.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D3 NoiseMerit consideration



With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To encourage innovative design solutions to improve the urban environment.***

Comment:

A more considered positioning of the outdoor terrace and how it relates to the surrounding properties is required in order to establish this element of the development. Given the many properties that this space overlooks, it would be more suitable for another location within the development to be considered.

- ***To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.***

Comment:

Insufficient information detailing the measures proposed to address noise generated from the development have been provided to satisfy this requirement.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D8 Privacy

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- ***To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.***

Comment:

The proposed building design which incorporates the main common open space spanning the front of the site is considered to compromise the visual and acoustic privacy of the neighbouring properties on the opposite side of Alexander Street.

Further, the development due to its deficient setbacks includes numerous windows and openings within 900mm of the side boundary. For a multi dwelling development that is seeking to be compatible with a low density setting these elements of the development which are contrary to the requirements of the clause further demonstrate that this site is not appropriate for this development.

- ***To encourage innovative design solutions to improve the urban environment.***

Comment:

There are no elements designed into this development which can be considered to adequately address this objective to improve the urban environment.

- ***To provide personal and property security for occupants and visitors.***

Comment:



While it is assumed that access to the premises will be secured, as the Manager's residence is significantly separated from the front half of the site, supervision of the security of the common open space is not well considered.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The development fails to meet the requirements of this control on most points. There are no progressively increased side and rear setbacks, the development includes large continuous wall planes which do not comply with the wall height control, the building footprint has not been minimised to address the slope of the land and there is a substantial lack of landscape planting on the site due to insufficient landscape area to support vegetation which could serve to soften the built form.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The proposed redevelopment of this site needs to be considered as proposed, however consideration should also be given to the combined visual impact of this development and the proposed boarding house development under separate application on Lot 9. In both instances, the visual impact of the development has not been minimised which is reflected in the substantial built form non-compliances documented in this assessment.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

D14 Site Facilities

The proposed development has been reviewed and assessed by Council's Waste Management Section as unacceptable. Refer to Waste comments in the referrals section.

D15 Side and Rear Fences

Insufficient information has been provided in relation to fencing on the site. The drawings provide no dimensions or notation to inform how fencing will adequately meet the requirements of this clause.

D20 Safety and Security



The development includes disabled parking and a stair platform lift to provide access into the development which is commendable. The design however fails to resolve this access and is inconsistent specifically with Requirement 9 (e) which states:

e) Potential conflict between pedestrians and vehicles is avoided.

The redirection of people within the driveway access where there is no protected path and onto the street in order to re-enter the site to the west of the driveway where the stair lift is located is unacceptable and inconsistent with this requirement.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

The application has been assessed against the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan 2011;
- Warringah Development Control Plan 2011; and



- Codes and Policies of Council.

The assessment has taken into consideration the submitted plans, Statement of Environmental Effects and all other documentation supporting the application and public submissions.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP 55, SEPP Affordable Rental Housing, SEPP Infrastructure, WLEP 2011, the relevant codes and policies of Council, and the relevant provisions of the WDCP 2011.

The application was referred to internal departments and external authorities. In the responses, Council's Urban Designer, and Traffic Engineer each raised fundamental concerns with the proposal. Council's Waste Management and Development Engineering sections have indicated that insufficient information has been provided to adequately address the requirements of the proposal.

The development attracted 25 individual submissions. The submissions raised concerns with regards to the proposed density and scale, character, safety and traffic and parking. Other issues raised include the impact of the development on the neighbouring properties in relation to amenity issues including privacy and noise. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report.

The assessment of the application against the provisions of SEPP Affordable Rental Housing found that the proposal is unsatisfactory with a number of the requirements.

The assessment of the proposed development against the provisions of WDCP 2011 found that the proposal is not consistent with Clauses B1, B2, B5, B9, C2, C4, C7, D1, D3, D8, D9, D14 and D15.

Based on the assessment contained in this report, it is recommended that the Northern Beaches Local Planning Panel refuse the application for the reasons detailed within the recommendation attached to this report, and any amendments to those reasons, which would constitute the contentions in defence of the Court appeal.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.



RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/0261 for the Partial demolition works and construction of a boarding house with associated carparking and Landscape works on land at Lot 8 DP 6984, 18 Alexander Street, COLLAROY, for the reasons outlined as follows:

1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009:
 - o Clause 29(2)(b).- the landscaped area is considered inconsistent.
 - o Clause 30(A) - The proposal is inconsistent in character
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with Warringah Local Environmental Plan 2011:
 - o Clause 1.2 Aims of The Plan
 - o Clause 2.3 Zone Objectives
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the relevant provisions of the following clauses of the Warringah Development Control Plan:
 - a. B1 Traffic Access and Safety
 - b. B3 Side Boundary Envelope
 - c. B5 Side Boundary Setback
 - d. C2. Traffic, Access and Safety
 - e. C4. Stormwater
 - f. C9. Waste Management
 - g. D1 Landscaped Open Space and Bushland Setting
 - h. D3 Noise
 - i. D8 Privacy
 - j. D9 Building Bulk
 - k. D14 Site Facilities
 - l. D15 Side and Rear Fences
4. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is considered an over development of the site.
5. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not in the public interest.

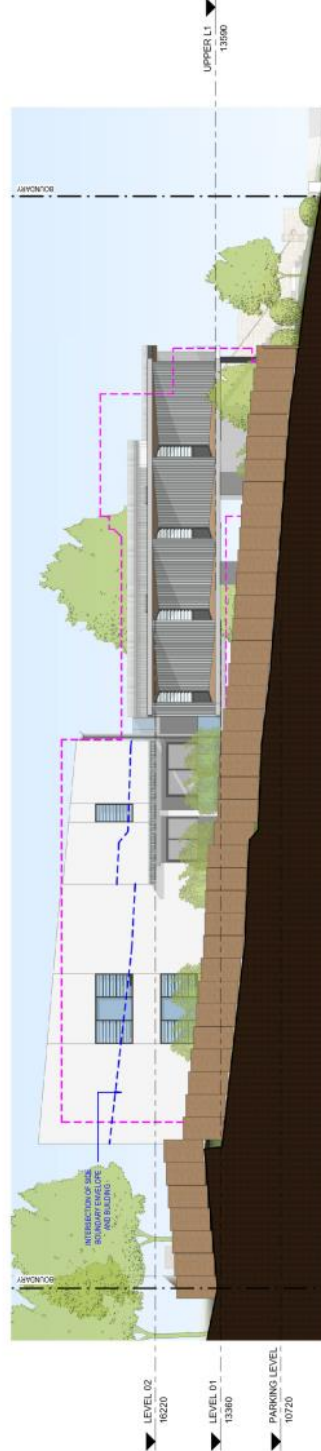




1. PROPOSED NORTH ELEVATION
Scale: 1:100 @ A1



2. PROPOSED SOUTH ELEVATION
Scale: 1:100 @ A1



3. PROPOSED EAST ELEVATION
Scale: 1:100 @ A1



4. PROPOSED WEST ELEVATION
Scale: 1:100 @ A1

LEGEND
- NATURAL GROUND LEVEL
- 4.8M HEIGHT PLANE
- SIDE BOUNDARY ENVELOPE
- INTERSECTION
- DARTMOUTH ENVELOPE

Project: LOT 8 - 18 ALEXANDER ST COLLAROY NSW Client: BRENDAN & SIMONE WAIGHTS	Registered Architect ACT 2824 NSW 10306 scott@walsh2architects.com.au 0469 849 880	Scale 1:100 @ A1	Sheet Name ELEVATIONS <small>This drawing is copyright and remains the property of Walsh² Architects. This drawing is for tender purposes only and is not to be used for construction.</small>	No. A	Number DA300	Description ISSUE FOR DEVELOPMENT APPLICATION	Date 07.02.20	Rev. A
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1. WHITE - PAINTED EASYLAP FC	2. JAMES HARDIE AXON 133 PROFILE WITH PAINTED WINDSPRAY FINISH.	3. JAMES HARDIE AXON 133 PROFILE LAID VERTICALLY WITH PAINTED MONUMENT FINISH.	4. SANDSTONE - ENTRY STAIRS AND RETAINING WALLS	5. METALWORK - WINDOW PERGOLA - POWDERCOATED MONUMENT

Project: LOT 8 - 18 ALEXANDER ST
COLLAROY NSW
Client: BRENDAN & SIMONE WRIGHTS

Walsh²
Architects
Registered Architect
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scott@walsh2architects.com.au
0469 849 880

Scale
1: 200 @ A1
Sheet Name
EXTERNAL FINISHES
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No.
A
Number
DA800
Description
ISSUE FOR DEVELOPMENT APPLICATION
Date
07.02.20
Rev.
A

ITEM 3.3

**DA2019/1480 - 242 WARRINGAH ROAD, BEACON HILL -
DEMOLITION WORKS AND THE CONSTRUCTION OF A
BOARDING HOUSE**

AUTHORISING MANAGER STEVE FINDLAY

TRIM FILE REF **2020/499095**

ATTACHMENTS

1 [↓ Assessment Report](#)

2 [↓ Site Plan and Elevations](#)

PURPOSE

This application has been referred to the Northern Beaches Local Planning Panel as it is the subject of 10 or more unique submissions by way of objection.

RECOMMENDATION OF MANAGER DEVELOPMENT ASSESSMENT

That the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority, **approves** Application No. DA2019/1480 for demolition works and the construction of a Boarding House at Lot 10 Sec 1 DP 6854, 242 Warringah Road, Beacon Hill subject to the conditions and for the reasons set out in the Assessment Report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1480
Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 10 DP 6854, 242 Warringah Road BEACON HILL NSW 2100
Proposed Development:	Demolition works and the Construction of a Boarding House
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Rohani Ut Holdings Pty Ltd
Applicant:	Ron Rohani
Application Lodged:	19/12/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	11/01/2020 to 01/02/2020
Advertised:	11/01/2020
Submissions Received:	35
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,985,000.00

EXECUTIVE SUMMARY

The proposal is referred to the Local Planning Panel as it is an application categorised as 'contentious development' being development that has received more than 10 submissions.

The proposed Boarding house is considered to be a suitable and appropriate development for the site and is in context with the 'local character'. The application is assessed under *State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH)*, the *Warringah Local Environmental Plan 2011* and *Warringah Development Control Plan*.

Principal environmental impact considerations are streetscape, bulk, landscaping, traffic and parking access, building height (including storey and envelope), privacy, overshadowing, urban character, construction

DA2019/1480

impacts (during works) and stormwater management.

Thirty-five (35) public submissions were received that have been considered and issues raised are summarised and addressed within this report. Conditions have been applied where appropriate to address the concerns; including landscaping, privacy, traffic safety, parking, noise, construction work and stormwater.

The proposal will not have an unreasonable impact in relation to view sharing considerations, privacy or solar access. Additional amenity impacts that may arise during construction works are addressed by standard conditions, including dilapidation risk, dust, noise, site management and the like.

Suitable conditions are recommended to address engineering, traffic and landscape referral responses as detailed in this report. Other Internal and External Referrals are subject to conditions as applicable, which include *Ausgrid* and *Transport NSW* requirements.

During the assessment period, some concept design details were required to address footpath regrading requirements, driveway access and stormwater issues, which relate to works within the road reserve that are subject to supplementary approval under the *Roads Act 1993*. The applicant has provided adequate details for all traffic and engineering matters, subject to conditions.

Planning matters relate to streetscape character, setbacks, building envelope, bulk and scale, external materials, overshadowing, privacy, boarding house management, stormwater and traffic and have been addressed throughout the report. In this case, the non-compliance with the control for the front setbacks (lower level parking area) is addressed in accordance with the objectives and requirements of those considerations.

No resident or assessment issues warrant further amendment or refusal of the application, therefore the application is recommended for approval.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent for the construction of a part two/part three-storey Boarding House, (pursuant to SEPP (Affordable Rental Housing) 2009), containing 12 lodger rooms, plus managers room, configured as:

- **Lower Ground Floor** - Level RL134.7 - Car parking for 7 cars and 3 motorcycles, stair access, driveway, communal laundry and outdoor area, services room, bin room, communal room bathroom and outdoor terrace.
- **Ground Floor Level** – RL137.55 - Seven (7) lodger rooms with bathroom and kitchenettes, (1) managers room with bathroom, kitchenette and balcony, storage room, communal room, stair access.
- **First Floor Level** – RL140.4 - Four (5) lodger rooms with bathroom and kitchenettes, stair access (with wheelchair stair lift), communal room and balcony, pedestrian entry foyer from Warringah Road, storage.
- **Roof Level** – RL144.5 Roof ridge

Ancillary site works include:

- Demolition of existing structures, excavation, site preparation and ancillary site works.
- Driveway and front entry structure with letter box's and landscaping and fencing worksbox.
- On-site detention drainage system and connection works to drain stormwater (north) along Ellis

- Road to Council assets / system.
- Footpath construction and regrading works.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D2 Private Open Space
 Warringah Development Control Plan - D6 Access to Sunlight
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 10 DP 6854 , 242 Warringah Road BEACON HILL NSW 2100
Detailed Site Description:	<p>The site is a corner lot located on the northern side of Warringah Road at the intersection of Ellis Road. The site has a total area of 877 square metres (sqm) with a frontage of 12.8 metres (excluding the splayed corner) to Warringah Road, a frontage to Ellis Road of 57.49 metres (m), a northern boundary of 15.775 metres and an eastern boundary of 55.65 metres. The site is rectangular in shape and relatively flat, with a fall of some 6 metres from south to north.</p> <p>Vehicular access to the site is via Ellis Road, whilst the main pedestrian access is from Warringah Road which has a</p>

signalized traffic light at the intersection of Ellis Road. In addition it is noted that the site has not been identified as a heritage item, and is not in a heritage conservation area, nor in proximity to a heritage item or heritage conservation area.

A mixture of single and two storey dwellings are generally the predominant land use in this area. There is a two storeytown house style development directly opposite the subject site, on the west side of Ellis Road and a dual occupancy development is located on the south west corner of Ellis Road and Warringah Road. Other land uses in the vicinity of the site (within 200m) include a service station / carwash and church.

The existing site is currently developed for a dwelling house and granny flat.

Map:



SITE HISTORY

The site currently contains a dwelling house constructed pre-1970's and an outbuilding in a landscaped setting.

Pre-lodgement Meeting (No.PLM2018/0118) was held for the construction of a Boarding House on 21 June 2018. The proposal is considered to be consistent with the design guidance / advice in the pre-lodgement notes to address issues / overcome concerns raised.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

DA2019/1480

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report. Including, <i>State Environmental Planning Policy (Affordable Rental Housing) 2009 ("SEPP ARH") and Warringah Local Environmental Plan 2011 (WLEP 2011)</i>
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	During the period of assessment a draft amendments to SEPP ARH were gazetted (the 2018 and 2019 the relevant amendments in particular, are referred to as "parking for boarding houses", and "Boarding House Development" in the SEPP). Provisions of any draft environmental planning instrument <i>Draft State Environmental Planning Policy (Remediation of Land)</i> seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan (DCP) 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters may be appropriately addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, <i>Transport NSW</i> and Council requested additional information which has considered the number of days taken in this assessment in light of this clause within the Regulations. The additional information requested relates to footpath works / regrading and drainage within the public road reserve as a preliminary to future <i>Roads Act</i> approval works which are satisfactory as per recommended conditions. The supplementary information does not warrant additional notification pursuant to the Community Participation Plan. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. These matters may be appropriately addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). These matters may be appropriately addressed via a condition of consent.

Section 4.15 Matters for Consideration'	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. These matters may be appropriately addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters may be appropriately addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Warringah Development Control Plan (DCP)</i> section in this report. In summary, the proposal is considered to be consistent with the <i>State Environmental Planning Policy (SEPP) for Affordable Rental Housing (ARH) 2009</i> and the <i>Warringah DCP 2011</i>.</p> <p>Details are provided within the relevant sections of this assessment report and summarised in the Conclusion.</p> <p>(ii) Social Impact Subject to conditions and the effective implementation of an Operational Plan of Management (OPM), the proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed residential land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the type of land use proposed.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>This assessment has found the proposal to be consistent with the relevant provisions of the WLEP 2011 and WDCP 2011, particularly in relation to setbacks, building bulk, landscaping and privacy considerations, noting that in the event of any inconsistency, the State Policy for ARH prevails and overrides the local planning controls. The proposal is consistent with the provisions of SEPP ARH in relation to local character and will not create an undesirable precedent or undermine the achievement of the desired future character of the area.</p>

Section 4.15 Matters for Consideration'	Comments
	In this regard, the development, as proposed, is considered to be in the public interest as the issues raised in submissions have been addressed the design response and satisfying relevant considerations.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/01/2020 to 01/02/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 35 submission/s from:

Name:	Address:
Anahid Babaian	C/- Po Box 667 ROUND CORNER NSW 2158
Ms Deborah Alison Rouse	26 Gertrude Street BEACON HILL NSW 2100
Mr J Cunningham	Address Unknown
Zmia Mac	Address Unknown
Mrs Andrea Crespo Arrisueno	6 Ellis Road BEACON HILL NSW 2100
Mr Glen Francis Coventry	16 Lanai Place BEACON HILL NSW 2100
Ms Megan Elizabeth Somers	259 Warringah Road BEACON HILL NSW 2100
Christine Carter	1494 Oxford Falls Road OXFORD FALLS NSW 2100
Anonymous	N/A
Dr Maria Pizzinga	1 Earl Street BEACON HILL NSW 2100
Mr Peter John Deans	24 Oxford Falls Road BEACON HILL NSW 2100
Mr Chang Yu Lin	13 Earl Street BEACON HILL NSW 2100
Mr Bruce John Huckle Merle June Huckle	9 Oxford Falls Road BEACON HILL NSW 2100
Ms Gabriele Ihl	14 Dareen Street BEACON HILL NSW 2100
Mr Grenville Francis Wattle	16 Dareen Street BEACON HILL NSW 2100
Mrs Clair Simone McCauley	277 Warringah Road BEACON HILL NSW 2100
Mrs Linda May Zimbos	248 Warringah Road BEACON HILL NSW 2100
Mrs Tsen-Hwee Williams	238 Warringah Road BEACON HILL NSW 2100
Nigel Bryan Taylor	42 Oxford Falls Road BEACON HILL NSW 2100
Mr Paul Roland Honour	2 / 32 Oxford Falls Road BEACON HILL NSW 2100

Name:	Address:
Mrs Olivia Kym Burns	PO Box 7373 WARRINGAH MALL NSW 2100
Mr Peter King	13 A Oxford Falls Road BEACON HILL NSW 2100
Mr Stephen Andrew Burns	4 / 2 Fairlight Crescent FAIRLIGHT NSW 2094
Mr Steven Fox	11 Oxford Falls Road BEACON HILL NSW 2100
Doreen May Zimbos	6 Billarong Avenue DEE WHY NSW 2099
Mr Nathan James Beilken	6 Ellis Road BEACON HILL NSW 2100
Vahagn Babaian	240 Warringah Road BEACON HILL NSW 2100
Mr Ara Petross-Gurjian	240 Warringah Road BEACON HILL NSW 2100
Keiryn Anne Osbourne	8 Earl Street BEACON HILL NSW 2100
Mr John Henry Rees Williams	238 Warringah Road BEACON HILL NSW 2100
Ms Angelika Eva Acock	2 / 254 Warringah Road BEACON HILL NSW 2100
Ms Sandra Maree Hoy	35 A Oxford Falls Road BEACON HILL NSW 2100
Ms Lynette Eileen Talbot	236 Warringah Road BEACON HILL NSW 2100
Mr Edward John Collis	236 Warringah Road BEACON HILL NSW 2100
Ms Lenamaree Teresa Sunshine Johnston Lowe	32 A Oxford Falls Road BEACON HILL NSW 2100

The following key issues were raised in the submissions:

- a) Traffic generation
- b) Lack of street parking
- c) Neighbourhood character
- d) Occupancy
- e) Housing design
- f) Development precedent
- g) Building bulk
- h) Inadequate planning controls
- i) Affordable Housing Rents
- j) Overshadowing
- k) Accessibility
- l) Existing dwelling use
- m) Safety
- n) Boundary fencing / levels

The matters raised within the submissions are addressed as follows:

a) Concern that the traffic report contains outmoded information for the increased congestion traffic conditions to Warringah Road, Ellis Road , Oxford Falls Valley Road and connecting local streets in terms of traffic and safety impacts, including clearways and car parking.

Comment:

The proposal has been assessed by Council's Traffic Engineer and Development Engineers in terms traffic safety, parking and driveway access including local road conditions. Detailed consideration of this issue includes site inspection of the context of the present surroundings and assessment of the building

design, consideration of the Traffic Assessment Report and supporting information provided with the development application. The proposal was also referred to *Transport NSW* and the applicant provided additional details to address *Transport NSW* requirements and Council's engineering requirements. In summary, the proposal provides a compliant number of carparking spaces required by SEPP ARH for 12 lodger rooms and a manager. Council's Traffic Engineer and Development Engineer have assessed the vehicle access, traffic impact issues, driveway access and parking and have not raised traffic concerns with the proposal and have provided conditions to address relevant traffic and parking considerations.

In summary, the proposal is a compatible residential land use for the R2 Residential Zone and is permissible under the Warringah LEP 2011 and SEPP ARH. The site has convenient access to public transport and fronts a major transport route and therefore the scale and intensity of the development will not cause an unreasonable impact on the surrounding road system. Appropriate conditions are applied to address traffic management during construction, vehicle access, safety and parking allocation.

Therefore, this issue has been addressed by the design response and does not warrant refusal of the application.

b) Concern that the proposal will create increased parking demand and loss of kerbside parking in the surrounding streets due to the intensity of use.

Comment:

The development will be provided with a carparking area within the lower ground floor level and includes a compliant number of off-street parking spaces pursuant to SEPP ARH. The site is also located within 50m of a bus stop (eastbound services) and signalised intersection for safe pedestrian crossing to the bus stop (westbound services) on the opposite side of Warringah Road. The proposal has been assessed by Council's Traffic Engineers in terms of potential parking impacts on the adjacent available street parking and conditions applied.

The proposal includes an appropriate provision of parking to comply with SEPP ARH requirements as detailed within this report. In this regard, the provision of car parking is a standard that cannot be used to refuse consent pursuant to clause 29 of the SEPP if the parking provisions are satisfied.

Therefore, this issue has been addressed by the design response and does not warrant refusal of the application.

c) Concern that a boarding house of this scale that is not suitable because of the current Low Density neighbourhood surroundings for family homes and boarding houses should only be in more densely populated zones.

Comment:

The subject site for the proposed boarding house development is within the R2 Low Density Residential zone (R2 zone) and Boarding Houses are "Permitted with Consent" in the R2 zone under the WLEP 2011. Boarding houses are also permissible in certain areas of the broader R2 zone under Clause 26 of the SEPP ARH and this site is within the criteria that permits the use on the subject site. There is no inconsistency between the SEPP and the WLEP in this case.

The proposal is limited to 12 boarding rooms and a managers room, by the provisions of the SEPP ARH for a low density residential areas, to ensure it is of a scale and intensity that is compatible with the surrounding land use pattern of development. In consideration of this issue, the proposal is regarded as satisfactory in terms of its design response that is not 'jarring' or out of character with the urban setting, and provides appropriate landscape setbacks, external colours and materials, acceptable

residential amenity and a visual impact that is consistent with various housing development adjacent and surrounding the site.

Therefore, the proposal is a suitable and compatible residential use for the site and this issue is not considered to warrant refusal of the application.

d) Concern that the boarding house will be used for transient occupants in an area predominantly used for permanent family residences and the development may add to social impacts involving police and ambulance call outs, substance abuse and domestic disturbances associated with the boarding house.

Comment:

"Transient occupancy" is considered to be occupation of rooms for less than 3 months, as the definition of a boarding house includes a stipulation that it "provides lodgers with a principal place of residence for 3 months or more". In this case, the boarding house will require a minimum 3 month lease (*Occupancy Agreement*) and resident commitment in accordance with the requirements of the Occupancy Plan of Management (OPM). The boarding house will also have a resident manager to address issues that may breach the OPM or occupancy agreement that will enable the associated rental agreement to be terminated if warranted.

The issue of transient occupancy, including tenant management of social issues such as noise or undesirable tenant behaviour, and the like, is therefore addressed by the OPM and does not warrant refusal of the application.

e) Concern that the boarding houses in the local area are unsuited to the streetscape location and the proposal is inconsistent with the 'community of interest' for the site, including amenity and privacy impacts.

Comment:

Consideration in terms of the streetscape and the design presentation of the building with regard to density, scale and bulk have been addressed under the heading 'Local Character' within this report. In summary, the building bulk, scale, setbacks and ratio of landscaping to building footprint are discussed in detail within this report under the heading *Part Landscaped Open Space* and *Part B7 Front Boundary Setbacks*. The proposed design has included recessed wall sections, setbacks, common rooms and window placement to ensure no unreasonable impact on the amenity of the neighbourhood character and adjoining land. Particular design measures have been used to ensure no unreasonable impact on the dwellings and swimming pool areas within No.240 Warringah Road and No.3 Ellis Road.

Overall, an appropriate design response has been proposed to ensure the development is in keeping with the existing character of the area in terms of the size and scale of the proposal, including building bulk, overshadowing, privacy and location of communal space.

Therefore, this issue has been addressed and does not warrant refusal of the application.

f) Concern that this boarding house will create an undesirable precedent due to design response proposed.

Comment:

Boarding house development is permissible with consent in the surrounding low density residential area under the NSW State Environmental Planning Policy (SEPP) for *Affordable Rental Housing (ARH) 2009* and the *Warringah Local Environmental Plan (LEP) 2011*. Notwithstanding that boarding house development is permissible in the R2 zone, it must also meet the requirements of the SEPP, WLEP and WDCP. This includes the zone objectives and development standards and other controls to ensure a

suitable and appropriate character, design, scale and density. The proposal is considered to be consistent with the objectives for landscaped open space, front and side setbacks, including building envelope and height. The building incorporates variations in roof form and style, including articulation and materials used to provide a compatible style with the character (roof form, materials and general appearance).

Therefore, this issue has been addressed and does not warrant refusal of the application.

g) *Concern that the building bulk is excessive for the site and will adversely affect the surrounding amenity by being inconsistent with the pattern and scale of existing residential housing near the site.*

Comment:

This issue is discussed in detail under the heading *Part D9 Building Bulk* of the WDCP and Clause 30 of the SEPP within this report. The bulk and scale of the proposal is considered to be inconsistent with the surrounding residential character along Ellis Road (visual catchment near the site) and when viewed from properties adjacent in Ellis Road and Warringah Road. It is considered that the proposal satisfies the SEPP ARH and DCP design requirements including building bulk, landscaped open space and side and rear setbacks. In summary, the proposal has addressed building bulk considerations and scale and does not create an unreasonable visual streetscape impact.

This issue has been addressed and does not warrant refusal of the application.

h) *The boarding house is not consistent with the local "family" neighbourhood.*

Comment:

The proposal has been designed to satisfy the character controls under the SEPP, WLEP and WDCP and boarding houses are considered to be a compatible residential style of accommodation for low density areas, subject to the specific design criteria outlined in the SEPP, LEP and DCP being met. Generally, boarding houses provide choice of housing for single persons or couples but this is not regarded as being incompatible with other forms of affordable rental housing permitted in low density areas that may accommodate single persons or couples such as "granny flats" (secondary dwellings), shared accommodation, and group homes or the like.

The boarding house is required to operate with a live-in Manager and in accordance with a Management Plan that includes provisions for noise, behavior, and measures to deal with breaches of the tenancy lease / house rules to ensure occupants of the building do not create unreasonable social or amenity impacts on the adjacent neighbourhood.

i) *Concern that the SEPP Affordable Rental Housing (2009) is being used to create studio style apartments that are not delivering cheap rental accommodation to the local market and the apartments will still attract a high rental return.*

Comment:

The proposed development is designed as a "new generation" style boarding house in that each room has its own kitchenette and ensuite, which is therefore a more expensive style of boarding house accommodation than if bathroom and kitchen facilities are shared between multiple tenants (similar to some traditional boarding houses). The building is not permitted to be strata subdivided and therefore all other areas of the building are associated with being shared or partly shared space for the boarding house. Even though the boarding house will attract rental returns that are commensurate with market

demand, boarding house accommodation is generally less cost than a private independent apartment. The SEPP does not require the applicant to nominate a rental rate as a mandatory requirement for the proposed boarding house.

The proposal is subject to the provisions of the SEPP which contains development standards and planning controls that override the WLEP and WDCP in relation to specific matters. Additionally, where there are inconsistencies between the SEPP and the local planning controls, the SEPP prevails. The SEPP includes specific planning controls, which cannot be used as reasons for refusal where they are complied with.

Therefore, this issue cannot be prescribed or levied with the current application and does not warrant refusal of the application.

j) Concern that the proposed boarding house will overshadow the dwelling and land to the east of the site.

Comment:

The applicant has provided shadow diagrams which demonstrate compliance with Council's solar access requirements under Warringah DCP 2011 that apply to the site. In addition, the proposal meets the solar access requirements within SEPP ARH 2009. Overall, the building complies with the maximum building height, side boundary envelope and wall heights and the proposal steps/transitions down the slope of the site to break-up the scale and mass of the building and assist in maintaining solar access/minimising the shadow cast from the building over neighbouring private properties. The property at No.240 Warringah Road and the subject site have northerly aspects and solar access to private open space areas will not be unreasonably affected by the proposal pursuant to *Part D6 Access to Sunlight* of the WDCP 2011.

In summary, the proposal is compliant and has been addressed to ensure no unreasonable overshadowing. Therefore, this issue does not warrant refusal of the application.

k) Concern that the proposal does not show that all accessibility requirements have been met for occupants.

Comment

The proposal has been designed to enable *Building Code of Australia* and access requirements to be satisfied with the details required at Construction Certificate Stage. This is appropriate for a development application. Notwithstanding, this application has been submitted with a *Building Code of Australia* report to demonstrate and assess that the design phase has been adequate to achieve compliance requirement for construction. The plans show internal stair lifts, at-grade access points to footpaths and pedestrian links to Warringah Road (i.e. bus stops), accessible car parking and room layouts to demonstrate access considerations.

Therefore, this issue has been addressed by conditions and design considerations and does not warrant refusal of the application.

l) Concern that the existing dwelling contains a granny flat (in the former garage space) and therefore the planning regulations will be disregarded by the boarding house proposal for carparking too.

Comment:

The existing dwelling and all structures on the site will be demolished as part of the proposed works. Secondary dwellings are a permissible use on the land, subject to consent but this use will cease to exist when the buildings are demolished in preparation for constructing the Boarding House. The proposal has been assessed in accordance with the current planning controls relevant to a Boarding

House on the subject land. A Boarding House is a permissible use on the site pursuant to SEPP ARH and Warringah LEP 2011.

Therefore, this issue is not considered to warrant refusal of the application.

m) Concern that the proposal will create safety concerns for vehicle and pedestrian access around the site frontage along Ellis Road, Warringah Road and Oxford Falls Road.

Comment:

The proposed access to Ellis Road for the driveway and new footpath construction is required to comply with Australian Standards to ensure safe access, sight distances and acceptable engineering gradients. This includes a left in, left out driveway design, regrading of the nature strip area and associated minor works. Council's Traffic Engineer and Development Engineer have assessed the proposal with regard to vehicles and works in the road reserve area and have provided conditions. Final construction details for works in the road reserve are subject to separate approval under *Section 138 - Roads Act 1993*.

In relation to traffic, parking and safety issues along Warringah Road (including the clearway zone and adjacent signalised intersection) *Transport NSW* have considered the proposal and raised no objection to the proposal and have provided their conditions of consent.

Therefore, this issue is addressed by conditions and does not warrant refusal of the application.

n) Concern that any site level changes along the boundary may put pressure on the adjacent brick fence for No.3 Ellis Road and any new boundary fencing will restrict car access along the adjacent narrow driveway with No.240 Warringah Road, including removal of the existing Viburnum screen hedge.

Comment:

This issue was considered on site by discussion during site inspection in relation to No. 240 Warringah Road. At present, the boundary between 240 Warringah Road and the subject site has no fencing, and only a screen hedge within the front setback area. Any new 1.8m high 'lapped and capped' style fence may lead to cars having difficulty in safely moving along the existing concrete driveway for No.240 Warringah Road. Suitable conditions are therefore recommended to retain the existing screen hedge located in the south-eastern corner of the site. Fencing along the eastern boundary, between the proposed external drying yard for the Boarding House and the front of the building is a matter that is appropriately managed under the Dividing Fences Act 1993. The survey plan shows there is a gap between the driveway and the true boundary line (as per plan No.4132-18 drawn by *Daw and Walton Consulting Surveyors*)

This issue was considered on site by discussion during site inspection in relation to No.3 Ellis Road. The northern boundary is higher than the adjacent land and additional fill along the dividing brick wall may add pressure to the existing wall that may further weaken it, as it was constructed many years ago. In order to address this concern, it is recommended that a suitable condition be applied to ensure existing ground levels are maintained within 1.0m of the adjacent boundary wall with No.3 Ellis Road.

Therefore, this issue relating to "cross-boundary" matters is addressed by conditions and does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
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DA2019/1480

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> <p>Planning Comment: Building Assessment requirements and conditions are included within the recommended conditions of consent.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Proposal for demolition of existing dwelling and construction of a 12 unit boarding house on the corner of Warringah Road and Ellis Road. Plan of Management, Acoustic Assessment, Statement of Environmental Effects and Master Plans provide sufficient information for Environmental Health to assess the impacts of the development including noise and light.</p> <p>Light from such sources as cars exiting the low-level car park and also outdoor lighting may impact surrounding residences negatively. Our investigation found justification for a condition on outdoor lighting.</p> <p>The following points on noise have been considered:</p> <ul style="list-style-type: none"> • Communal indoor room on the first floor • Communal Indoor room on the ground floor • Communal indoor and outdoor barbecue area on the lower ground floor • Installation of a solid brick fence between adjacent dwellings • Limits on use between 10 pm and 7 am • Limits for air conditioning units and mechanical ventilation units • Main road adjacent • Planning Comment: Transport NSW requirements and conditions are included within the recommended conditions of consent. • Points raised in the noise management plan <p>Environmental Health will formalise some control points raised in the Plan of Management and Acoustic Report to minimise the impact on surrounding residences.</p> <p>In conclusion, Environmental Health recommends approval subject to conditions.</p> <p>Recommendation</p>

Internal Referral Body	Comments
	<p>APPROVAL - subject to conditions</p> <p>Planning Comment: Environmental Health requirements and conditions are included within the recommended conditions of consent.</p>
Landscape Officer	<p>The plans indicate landscaped setback to the front and side boundaries including a mixture of trees, shrubs and groundcovers.</p> <p>No significant trees are located on the site and existing street trees are to be retained.</p> <p>It is recommended that any management plan for the development includes requirements for landscape maintenance to ensure the landscape outcome is perpetuated during the life of the development.</p> <p>No objections subject to conditions.</p> <p>Planning Comment: Landscape requirements and conditions are included within the recommended conditions of consent.</p>
NECC (Development Engineering)	<p><u>Stormwater:</u></p> <p>The Geotechnical Report indicates that sub-surface drainage is to be provided. This has not been shown on the stormwater concept plans.</p> <p>Sub-surface seepage flows are not permitted to discharge to the kerb and gutter. In this regard, an extension to Council's stormwater infrastructure in Ellis Road is required. In accordance with Council's Building Over and Adjacent to Constructed Council Drainage Systems and Easements Technical Specification Section 3, full hydrological and hydraulic details shall support any application for stormwater extension and the design requirements are detailed in Section 4, including HGL analysis.</p> <p><u>Street Levels:</u></p> <p>The proposed street level arrangement indicates a reverse gradient behind the footpath that will effectively create a channel against the proposed retaining wall which may enter the basement carpark. It is considered that the height of the retaining wall should be increased and the road reserve generally graded towards the road to prevent nuisance stormwater entering the property. The proposed street levels should also consider how the new levels will match into existing levels to the adjoining property.</p> <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> Stormwater drainage for the development in accordance with clause C4 Stormwater. <p><u>Additional Engineering Information received on 25 June 2020</u> Additional information received regarding the footpath and drainage plans have been reviewed.</p> <p>It is noted that the road reserve behind the footpath has been graded to fall towards the road. In order to match the existing levels to the adjoining property it is recommended that the footpath to the north of the driveway follow the back of the kerb as conditioned.</p> <p>The stormwater connection to the council pipeline shall be via a new gully pit at the location where the council line crosses the kerb as conditioned.</p> <p>Planning Comment: Development Engineering requirements and conditions are included within the recommended conditions of consent.</p>
Traffic Engineer	<p>It is proposed to demolish the existing building and excavate part of the site to provide a level building platform for construction of a new three-level building over lower ground carpark.</p> <p>The proposed development will comprise:</p> <ul style="list-style-type: none"> - 12 accommodation rooms - Manager's room - Common room and courtyards - 7 parking spaces, 3 motorcycles spaces and 3 bicycle spaces <p>Parking will be accessed by a combined ingress/egress driveway located in a similar position to the existing driveway on the Ellis Road frontage.</p> <p><u>Traffic:</u> The RMS Guidelines would suggest this type of development to be a 'Medium Density' being that it is only 3 storeys.</p> <p>Based on medium density, the applicable generation rate is 0.4-0.6vtph.</p> <p>Therefore: 0.5 x 13 units = 6.5 ~ 7 vehicle trips in the peak hour.</p> <p>Whilst the applicant has used an incorrect assumption, 7vtph is still deemed minor and will not have any significant impacts on the local road network. The report should be updated to reflect actual numbers.</p> <p><u>Parking:</u> An indication of the parking required in relation to the proposed development is provided in the SEPP (ARH) as follows:</p> <ul style="list-style-type: none"> - 0.5 space per boarding room

Internal Referral Body	Comments
	<p>- Not more than 1 space for each manager</p> <p>Application of the above criteria to the development scheme would indicate the following requirement: 12 rooms @ 0.5 = 6 car spaces A manager room = 1 car space Total: 7 car spaces</p> <p>Motorcycle spaces are to be provided at a rate of 1 per 5 rooms = 3</p> <p>Bicycle spaces are also to be provided at a rate of 1 per 5 rooms = 3</p> <p>The number of spaces provided is in accordance with the above and are therefore compliant.</p> <p>Car Park: The motorbike spaces are located adjacent to a accessibility shared zone. This would suggest the riders must make use of the shared zone when accessing the motorbike spaces. This is not deemed acceptable. The shared zone is for the safe access of mobility impaired users. the applicant will need to relocate the motorbike spaces.</p> <p>All other spaces are designed in accordance with AS2890.1 and are therefore acceptable.</p> <p>The 5.8m wide driveway allows for a passing opportunity at the top of the driveway which is acceptable as the sight lines leading into the basement are poor.</p> <p>Servicing: Any requirement for a Waste Service Vehicle to stop along the property frontage should be accompanied by appropriate signage to restrict the parking at this location and ensure unimpeded access for the truck. A condition will be included specifying the need for this.</p> <p>Conclusion: Subject to the relocation of the motorbike parking location, the Council's Traffic Team raise no objection.</p> <p>Planning Comment: Traffic Engineering requirements and conditions are included within the recommended conditions of consent.</p>
Waste Officer	<p><u>Waste Management Assessment</u></p> <p>Recommendation - approval subject to conditions.</p> <p>Planning Comment: Waste Services requirements and conditions are included within the recommended conditions of consent.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to <i>Ausgrid</i>. A referral response was received on 10 March 2020 with no objections to approval subject to compliance with Ausgrid requirements that are included with the recommended conditions provided.</p> <p>Planning Comment: Ausgrid requirements and conditions are included within the recommended conditions of consent.</p>
Aboriginal Heritage Office	<p>"No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, the Department of Planning, Industry and Environment (DPIE) and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted."</p> <p>Planning Comment: Aboriginal Heritage Office requirements and conditions are included within the recommended conditions of consent.</p>
NSW Roads and Maritime Services (Traffic Generating Development)	<p>Referral was made to "Transport NSW" for comments from the Roads and Maritime Service departmental section. A referral response was received on 21 January 2020 with comments seeking a left in left out driveway design and swept paths for a vehicle entering and exiting the site on Ellis Road.</p> <p>The applicant submitted additional details and the supplementation information was referred to Transport NSW for further comment.</p> <p>A referral response from <i>Transport NSW</i> was received on 16 June 2020 and raise no objection to approval of the proposal, subject to conditions of consent.</p> <p>Concluding comments from Transport NSW: "Reference is made to Council's correspondence dated 26 May 2020, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007.</p> <p>TfNSW has reviewed the submitted application and raises no objection to the application. TfNSW requests that the following requirements are incorporated into any consent issued by Council:" [Details are provided in the attachment to this report]</p>

External Referral Body	Comments
	<p>Planning Comment: <i>Transport NSW</i> requirements and conditions are included within the recommended conditions of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use, subject to conditions to ensure appropriate safe handling of any lead paint or asbestos material that may be present / identified in the demolition process.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibly, floor space ratio bonuses and non-discretionary development standards.

Division 3: Boarding Houses

Clause 25: Definition

For the purposes of this Division, the Standard Instrument defines a 'boarding house' as a building that:

- "(a) is wholly or partly let in lodgings, and*
- (b) provides lodgers with a principal place of residence for 3 months or more, and*
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment".

In this Division 'communal living room' means "a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room".

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	Consistent The site is located within the <i>R2 Low Density Residential</i> zone and, as such, the proposed use is permissible with consent under WLEP 2011, pursuant to the overriding powers of the ARH SEPP.

Clause 27: Development to which this Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

Requirement	Comment
(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. Note: Accessible area means land that is within: (c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.	Consistent The site is located within the R2 Low Density Residential zone and is situated less than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday. Concrete footpaths are present along Warringah Road that provide a continuous path of travel to the nearest bus stops. A Traffic and Parking report has been submitted by the applicant detailing access and details of available bus services to satisfy this clause. Note: <i>Transport NSW</i> manage traffic conditions including such as clearways, signals and traffic related issues along Warringah Road as it is classified as a "Main Road" of regional importance. Therefore, information provided by traffic studies may be subject to later change without notice for traffic safety / transit management implemented by <i>Transport NSW</i> .

(3) Despite subclause (1), this Division does not apply to development on land within <i>Zone R2 Low Density Residential</i> , or within a land use zone that is equivalent to that zone that is not in the Sydney region, unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	Not applicable. The site is located within the Sydney region.
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Clause 28: Development may be carried out with consent

Requirement	Comment
Development to which this Division applies may be carried out with consent.	The development involves the construction of a "boarding house", as defined by the Standard Instrument. Therefore, the development may be considered under this Division of the SEPP as development which may be carried out with consent.

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applicable to the site under the WLEP 2011 or WDCP 2011.	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Not applicable	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register -	The site is not within a zone that permits residential flat buildings and the site does not contain a heritage item and is not in a heritage conservation area. (i) The site is not within an area that has a floor space ratio.	Not applicable

	<p>the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>	(ii) The site is not within an area that has a floor space ratio to apply a percentage.	
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The maximum building height complies with the 8.4m building height control under the WLEP 2011 (as per <i>existing ground level</i>).	Compliant: 8.4m
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The proposed landscaping is compatible with the existing character of the local area. The front setback has maintained deep soil planting in the setback areas to adjacent neighbours and the street. to soften / partly screen the proposed built form. The majority of landscaping is at ground level near the boundary fence line. The setback to Warringah Road will be retained as deep soil planting (of 1m or more depth) as shown on the submitted landscape plan.	<p>Consistent - Warringah Road</p> <p>Does not comply - Ellis Road (secondary frontage) Satisfactory on merit consideration.</p>

		For the Ellis Road frontage the setback area is encroached by the carparking structure, however this will be covered by landscaping (in part the soil cover is shallow and requires low screen planting). In addition the main wall line for the building is setback 3.5m which allow for a suitable landscape buffer for a Secondary setback. The Ellis Road frontage will also include open-style fencing and regrading of the footpath area which will provide a suitable of the landscape setting for the secondary frontage.	
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	Communal living room Lower Ground Floor Level provides ground level outdoor access and northerly direct solar access to the room. Complies with 3 hour solar access requirement. Communal living room First Floor Level provides balcony with northerly direct solar access to the room. Complies with 3 hour solar access requirement.	Consistent
(d) private open space	if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20m ² with a minimum dimension of 3.0m is	(i) A private open space area of more than 20 sqm is provided with minimum dimensions of more than 3.0m within the setback area (toward No.3 Ellis Road) and the outdoor open space is accessed from the	(i) Compliant - main area 60 sqm (ii) Does not comply - Satisfied by condition

	<p>provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	<p>communal living room on the Lower Ground Floor.</p> <p>(ii) A private open space balcony area of 1.5m x 5.0m is provided for the Managers room. The balcony can be widened to 2.5m (to be 12.5 sqm). As it is above the communal room terrace this is achievable.</p>	
(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(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, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>The building contains 12 boarding rooms plus an on-site managers boarding room and is not being carried out by a social housing provider.</p> <p>Six (6) car spaces are required for lodgers (+ 1 Manager car space)</p>	<p>Complies</p> <p>(Note: One space includes is an "accessible" parking space with a "shared zone" for access)</p>

(f) accommodation size	if each boarding room has a Gross Floor Area (GFA) (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	Excluding kitchen bathroom space for Lodger rooms: Room G01 = 17.7 sqm (2) Room G02 = 17.7 sqm (2) Room G03 = 16.2 sqm (2) Room G04 = 17.7 sqm (2) Room G05 = 16.2 sqm (2) Room G06 = 17.7 sqm (2) Room G07 = 16.6 sqm (2) Room G08 = 17.7 sqm (2) Room G09 = 16.2 sqm (2) Room G11 = 16.2 sqm (2) Room G12 = 18.5 sqm (2)	Consistent Based on room sizes, the application must be assessed against the highest occupation for each room and the capacity is a maximum of 24 Lodgers.
	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	All rooms have a private kitchen and bathroom facilities.	Consistent
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	The proposal meets the requirements of this Division in a satisfactory manner, subject to conditions.	Satisfactory, subject to conditions.

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is		

satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A communal living room is located at the rear (lower ground floor level) and at the first floor level of the building.	Compliant The 2 communal rooms have an appropriate standard of amenity and have been located and designed to ensure no unreasonable amenity to neighbour's in consideration of setbacks, landscape buffer, privacy walls, adjacent structures and position within the Boarding House.
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 sqm,	No boarding rooms have an area, excluding the kitchen and bathroom facilities that exceed 25 sqm.	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	This has been included in the operational plan of management (OPM) that no rooms are to have more than 2 person occupancy.	Compliant, subject to conditions - to restrict occupancy as per the OPM.
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room has its own kitchenette and bathroom facilities. There is also a bathroom and kitchenette within the communal rooms.	Compliant
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The boarding house 12 lodger rooms (maximum 24 persons). A Managers room is provided at the northern end of the Ground Floor level.	Compliant
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	Not applicable	Not applicable
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	Three (3) bicycle spaces and three (3) motorcycle spaces are required.	Compliant

(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not applicable	Not applicable
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Clause 30AA: Boarding houses in Zone R2 low Density Residential

A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.

Savings and transitional provisions of the SEPP ARH apply to this development application for this clause (ref.Clause 54C).

Clause 30: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. While the Planning Principle related to a Senior's Housing development it is relevant to boarding house development since the planning principle deals with "local character" and how new development should respond sympathetically to the "character of the local area".

To address this consideration of compatibility the following characterisation matters have been factored in to the assessment, pursuant to the planning principle:

1. What is the relevant area?

Being the visual catchment / surroundings of the site where the impact is greatest and that particular part of the street, the general urban / semi-rural landscape, whether a precinct includes adjacent streets as applicable (such as for heritage reasons).

2. What does "consistent" mean?

Being the residential and prevailing forms or dominance of roof styles, local landscape, identify proportions and patterns of development spacing.

3. What is the local character?

Being whether the land in the vicinity is very urbanised, partly semi-rural, landscaping adjacent buildings, heritage, dominant materials, dominant styles, heights and setbacks.

4. What is the character of the proposed development?

Being whether the proposal is conservative in style, has an inappropriate density, its own 'unique' character if suitable, and blending of colours and materials to the environment.

5. Is the character of the development consistent with the local character?"

Being whether the proposal is "jarring", or in sympathy and whether or not overbearing or overweighted

toward a particular precedent or well integrated to the surroundings.

Compatibility of the Proposal with Surrounding Development

The following provides an assessment against the Planning Principle established in those two cases.

In the case of *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 Senior Commissioner Roseth developed the following Planning Principles:

- ***The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.***

Comment:

The majority of residential buildings in the vicinity of the site are either single storey or two storey detached dwellings with a few examples of apartments or dual occupancy development in landscaped settings. This has established the predominant character of residential development in the area. Other development in the vicinity includes a church, business uses (car wash) and some "seniors housing" in the local surroundings.

On the whole, the character of the area remains as low density residential within the visual catchment of the site. The predominant building height is a mixture of single and two storey dwellings. The building setbacks are reasonably consistent, although not in an obviously straight line. The landscaping does not dominate buildings; rather, there is a balance between buildings and vegetation. There is some consistency of architectural style (tiled hipped roofs, brick walls, verandas, windows with hoods over them) throughout. The proposal has been designed to include elements of these surrounding built forms.

It is noted in particular that the proposed building essentially complies with Council's requirements in relation to height, building envelope and wall height controls. Whilst the boarding house obviously occupies a greater footprint than surrounding detached dwelling houses, the overall height and appearance of the building is considered to be compatible with the streetscape and landscape setting of nearby residential development along Warringah Road and Ellis Road. In that regard, it can be concluded that the proposed development is of a scale not inconsistent with the streetscape, and therefore consistent with the requirements of this principle.

In this regard, it is considered that the bulk, scale and massing of the development is compatible with the streetscape and consistent with this principle.

- ***The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.***

Comment:

Whilst the proposed development appears as one building, it has been designed to have an appearance of a semi-detached style. In that regard, the use of colours and varying materials, together

with the sloping and broken roof line, and the proposed building setbacks, particularly to Warringah Road and Ellis Road, the building presents as a well articulated building, which will not create and unreasonable impact on the streetscape in this location.

The proposed landscaping also maintains the wide setbacks to Warringah Road and Ellis Road, complementing the building, consistent with the setting of other newer/more recently constructed dwellings in this locality that have wider and larger building footprints.

Overall, the development is considered to be comparable with the scale of surrounding development

- ***The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.***

Comment:

There is no existing vegetation of any significance on the site, but new and intensive planting is proposed both within the site and within the public domain, will complement and enhance the appearance of the proposed building.

The site does fall moderately towards the north. In addition, the architect in designing the proposed building, has used the existing excavated footprint of the site (previous excavation), to accommodate a lower ground level, combined with a substantial setback of the first floor to the rear boundary, which assists in mitigating the bulk and scale of the building when viewed from the north.

It is considered that the proposed landscaping will ensure that the building does not unreasonably dominate the proposed building's natural setting, and the design of the building, with its articulation and use of materials and colours, ensures that any perception of visual dominance, will be significantly reduced.

In that regard, it is considered that the proposed development is consistent with this principle.

In this regard, it is considered that effective methods have not been employed in the design of the development to reduce its visual dominance and so the proposal is not inconsistent with the third principle.

- ***The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.***

Comment:

The proposed building includes materials and colours, and a roof form that retains a visual appearance comparable with the residential context within which the proposed building is to be located. Accordingly, it can be concluded that the proposal is consistent with this principle.

In this regard, the development is considered to be consistent with this principle in terms of colours, materials and roof style.

The above Principals were further developed in *Project Venture Developments v Pittwater Council* (2005) NSWLEC 191 to include the following:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Comment:

The physical impacts of the development on surrounding properties is assessed as comprising privacy, overshadowing and noise.

Constraints on the Development Potential of Surrounding Sites

All land currently surrounding the site is established low density housing stock, and landscaping forms a major component of the existing character. Therefore, future development is required to maintain a dominant landscape setting and spatial separation. The design of the proposal has had regard to maintaining the neighbourhood character, considering the urban design outcomes, use of landscape setback, compatible roof style and external materials / colours to the existing context. The surrounding land is not currently identified for zoning changes in any Draft format release (such as areas close to the Northern Beach Hospital).

Privacy

The proposed development does not include any elevated decks, which would unreasonably impact upon the visual privacy of neighbouring residential properties. There are however a number of elevated habitable rooms which have the potential to inhibit visual privacy, but it is proposed to install horizontal screens on those windows where appropriate to preserve visual privacy of neighbouring residential properties.

Dense landscaping is also proposed around the perimeter of the site to minimise any perception of privacy impact upon neighbouring properties.

The main common rooms located on the lower ground and ground floor levels are located at the northern end of the site to minimise any noise impacts that might emanate from this location. Additionally, common rooms are also located on the ground and first floor levels facing Ellis Road. Overall, it is considered that the boarding house will maintain a good standard of visual and acoustic privacy, as well as security, a subject which is addressed in more detail later in this report.

The boarding house design also maintains an innovative use of space to maintain reasonable amenity for the future occupants of the proposed boarding house.

Overshadowing

Shadow diagrams have been prepared and are addressed later in this report. However, it can be concluded that the proposed development complies with the requirements of Clause D6 of Council's DCP in relation to access to sunlight.

Noise

The 12 room boarding house will have a significantly higher occupation compared to that of the adjacent and surrounding single dwellings and secondary dwellings, therefore potential noise disturbance between adjacent private open space areas is to be managed by integrating or shielding

these common areas from neighbouring dwellings. The outdoor terrace is particularly exposed to the west and north with respect to potential noise impacts from occupants of the boarding house, if congregating or socialising within the outdoor terrace at the rear of the building. An acoustic report has been submitted and addresses these issues.

In addition, the proposal will have an on-site Manager and operate in accordance with the Plan of Management, to ensure noise disturbances from the future occupants do not unreasonably affect surrounding residential land.

An OPM is required to be in place for the management of the boarding house, and a resident on-site manager to enable any immediate response to any noise disturbances. In this regard, it is considered the rear private open space area is suitably located and the presence of an on-site manager and the "house rules" are appropriate mechanism to ensure no unreasonable acoustic amenity on adjacent land.

Conclusions on Character Assessment

The above character assessment has found that, in the context of the *Land and Environment Court Planning Principles*, the proposal is satisfactory with respect to how it responds to the existing character of the local area and the public interest. The design response to break up wall planes, building bulk, landscaped setbacks, external materials and roof form creates an acceptable design outcome.

In this regard, the proposal is a satisfactory design response to the requirements of the WDCP 2011 in terms of setbacks, privacy, landscaping, private open space and building bulk. The SEPP does not permit a higher density and occupancy and the proposal adequately responds to ensure a "good fit" within the low density residential surroundings and maintaining a built form that is not "jarring" or an abrupt change in terms of its visual impact when viewed from surrounding land and how it sits within the streetscape.

The proposal will therefore will not create an unfavourable development precedent that is contrary to the public interest.

Conclusion

The development is satisfactory in terms of consistency with the SEPP ARH, including the surrounding local character, roof design, privacy, landscaped open space buffers, parking, access and side setbacks and amenity considerations of noise disturbance likely from the communal open space.

SEPP (Building Sustainability Index: BASIX) 2004

The proposal is subject to SEPP Basix following the NSW LEC decision that a Boarding House may be considered as dwelling style housing but is subject to particular criteria relevant to SEPP BASIX. A Basix report 1062086M has been submitted dated 13 January 2020 and demonstrates that the Water, Thermal and Energy scores required are achievable.

The proposal is also required to conform to Part J of the *Building Code of Australia* to demonstrate energy efficiency. A Section J BCA report has been submitted with the application demonstrating compliance.

SEPP (Infrastructure) 2007

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Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to *Ausgrid*. A referral response was received on 10 March 2020 and Ausgrid requirements are included with the recommended conditions.

Other Service Infrastructure Authorities

The application was required to be referred to the *Roads and Maritime Service* (RMS) and issues raised by RMS have been addressed in the applicants design the satisfaction of Council's Development Engineers and Traffic Engineer. The RMS has provided no secondary response after follow up by Council, and conditions are included to require final works and standard details for the road reserve works to be included as appropriate under the *Road Act* prior to issue of the Construction Certificate. No other service authority referral issues are raised pursuant to the SEPP.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.4m (*)	N/A	Yes

*Height assessed from the submitted Survey plan and finished RLs shown on the architectural plans.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation	Complies
B1 Wall height	7.2m	7.2m	N/A	Yes
B3 Side Boundary Envelope	45 degrees at 4.0m (East)	Complies with envelope (Eaves permitted)	N/A	Yes
	45 degrees at 4.0m (North)	Complies with envelope (Eaves permitted)	N/A	Yes
B5 Side Boundary Setbacks	0.9m (East)	2.0m (Basement)	N/A	Yes
		1.0m to 2.8m (Ground floor - primary wall plane)	N/A	Yes
		2.0m to m (First floor - primary wall plane)	N/A	Yes
	0.9m (North)	3.8m (Bin room) 6.7m to 7.1 (Ground floor - primary wall plane) 12.0m+ (First floor - primary wall plane)	N/A N/A N/A	Yes Yes Yes
B7 Front Boundary Setbacks (Warringah Road)	6.5m	10.4 to 12.7m (Basement)	N/A	Yes
		6.5m (Ground floor - primary wall plane)	N/A	Yes
		6.5m	N/A	Yes

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		(First floor - primary wall plane)		
B7 Front Boundary Setbacks (Ellis Road) (variation to 3.5m may be considered on merit based on existing streetscape)	6.5m (up to 3.5m)	1.6m (Basement) 3.5m to 4.1m (Ground floor - primary wall plane) 3.5m to 4.1m (Ground floor - primary wall plane)	N/A N/A N/A	No Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting (Area 877sqm)	350sqm 40%	273sqm 31% (additional 76sqm of landscaping that is less than 2.0m wide / 1.0m deep also shown)	22%	No

NB : B9 Rear Boundary Setbacks does not apply to corner Lots

* Refer to detailed merit assessment under the building form controls 'Compliance Assessment' heading within this report.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of Non-Compliance

The control requires development to be setback 6.5m from the front boundary to all public roads. Variations are permitted to 3.5m on merit consideration to the prevailing secondary setback. In this case, the proposal complies with 6.5m to Warringah Road and the lower level carparking area to Ellis Road is setback 1.6m, which does not comply.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To create a sense of openness.***

Comment:

The building elements that are within the front setback include minor elements of the basement structure, ground floor and overall the non-complying elements have no significant impact on the sense of openness created along the site frontage. The site is on a corner location and with the landscaping elements provided are satisfactory to maintain a sense of openness.

- ***To maintain the visual continuity and pattern of buildings and landscape elements.***

Comment:

The front setback for the building wall for the carparking area will be provided with landscaping above and be partly screened by the front fencing proposed. Therefore, the encroaching building elements do not have an unreasonable impact with regard to maintaining the visual

continuity and pattern of buildings and landscape elements in the street.

- ***To protect and enhance the visual quality of streetscapes and public spaces.***

Comment:

The encroaching elements are minor components of the building and do not detract from the visual quality of the streetscape as the proposal includes deep soil landscape space and appropriate colours and materials to integrate with the surrounding urban environment. Landscape planting includes a mix of deep soil grassed areas, small to medium shrubs and small trees appropriate to the urban landscape.

In this regard, the landscaping proposed will ensure the development does not have an adverse impact on the visual quality of Ellis Road streetscape and adjacent public space along the road reserve or Warringah Road.

- ***To achieve reasonable view sharing.***

Comment:

The site is within a built up area and there are no coastal or district views are affected by the building elements within the front setback to Ellis Road.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of Non-Compliance

The proposal has a landscaped open space (LOS) area of 273 sqm (31%) (measured as 1m deep soil and 2m wide landscaping space), which represents a deficiency of 31% from the required landscaping area of 350sqm (40%).

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- ***To enable planting to maintain and enhance the streetscape.***

Comment:

The proposal complies with street setbacks to both Warringah Road and Ellis Road (except for the basement structure), providing opportunities for tree planting and landscaping, including, within the public domain where space of 2.0m or wider and deep soil will be retained.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

There is no vegetation of any significance on the site.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The proposed landscaping includes a variety of low and medium shrubs and canopy trees to provide a variety of landscape planting comparable with the building that is proposed for the subject site. The proposed landscaping will provide an enhanced setting for the building, which will also assist in mitigating any perceptions in relation to the height, bulk and scale of the building. As also indicated in this report, no views are unreasonably affected by the height of the selected tree planting.

- *To enhance privacy between buildings.*

Comment:

The landscape planting has been provided to enhance the architectural design of the building and privacy between neighbouring properties. This includes the use of screen planting and trees to ensure that there are no unreasonable impacts on privacy to adjacent residential land. Visual screens are also proposed on windows where appropriate to complement the landscaping, and minimise any potential for overlooking.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The garden areas provided on the Warringah Road frontage and that of Ellis Road side setback, provide adequate breakout areas for those occupants living in the boarding house, and seeking passive recreation. Some terraces are also provided to the ground floor units that have a garden outlook for the enjoyment of the occupants.

- *To provide space for service functions, including clothes drying.*

Comment:

The proposal includes an internal laundry and open air clothes drying outside the building (ground level, eastern wall) and for the manager with the terrace provided.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Opportunities for deep soil planting is provided around the perimeter of the building, except

where pathways are required for the egress and BCA compliance. The OSD is integrated into the overall site planning and designed to manage storm water to discharge from the site to the Council system in Ellis Road.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D2 Private Open Space

Description of Non-Compliance

Communal open space area used as private open space at ground level.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that all residential development is provided with functional, well located areas of private open space.*

Comment:

The communal outdoor private open space is located at the northern setback provides a suitable landscape buffer to adjacent land. It is considered that the private open space area is well located/adequately separated to minimise noise intrusion to neighbours, including potential overlooking of adjacent land.

- *To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.*

Comment:

The communal private open space for the boarding house is directly accessible from the communal living room and located at ground floor level at the rear of the building. Therefore, the proposal satisfies this objective.

- *To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.*

Comment:

The private open space area at lower ground level is wholly within the landscape area. The implementation of the OPM and 'house rules' as part of the tenancy agreement required for renting rooms within the boarding house ensures that appropriate management mechanisms are in place to ensure no unreasonable impacts from noise and activity within the open space areas of the boarding house. The upper balcony for the upper level common room is well setback and shielded by the building, being on the Ellis Road side and therefore has no unreasonable impact on adjacent neighbours.

- *To ensure that private open space receives sufficient solar access and privacy.*

Comment:

The communal private open space area at the rear of the site receives sufficient solar access to comply with the WDCP on the 21 June, as demonstrated in the solar access diagrams prepared by .

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D6 Access to Sunlight

Merit Consideration

With regard to requirements of access to sunlight the development is considered against the underlying Objectives of the Control as follows:

- *To ensure that reasonable access to sunlight is maintained.*

Comment:

Shadow diagrams are shown on the submitted plans A:010-1 drawn by *Macphail & Sproul Architects*. An assessment of those diagrams indicate that at least 50% of the private open space of adjoining dwellings will maintain a minimum of 3 hours of sunlight between 9.00am and 3.00pm on June 21 and reasonable access to sunlight is maintained.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The northerly aspect of the site and No.240 Warringah Road provides an advantageous environment for the design to ensure a design solution that does not create an unreasonable loss of sunlight to adjacent land. The site falls toward the north and the boarding house roof profile steps down the slope in response to the natural topography to take advantage of the slope.

- *To maximise the penetration of mid winter sunlight to windows, living rooms, and high use indoor and outdoor areas.*

Comment:

The building complies with the height and envelope built form controls which assists to minimise overshadowing impacts for neighbours windows, living rooms and other indoor and outdoor areas. For the boarding house common rooms, outdoor communal open space and managers room a minimum of 3 hours of direct sunlight will be available due to the design response that takes advantage of the northerly aspect.

- *To promote passive solar design and the use of solar energy.*

Comment:

The boarding house design maintains compliance with solar access requirements of this clause and the building has been designed to maintain consistency with solar access requirements, including energy efficiency required for building design (including BASIX and "Section J" of the BCA). The proposed building layout, window and roof design of the boarding house and building separation to neighbours is consistent with this objective.

- *To minimise the need for artificial lighting.*

Comment:

The building is consistent with objective of this clause to ensure the need to minimise artificial lighting is maintained by ensuring reasonable solar access within the building and to adjacent residential properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

D8 Privacy

Merit Consideration

The requirements for privacy the development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

The building layout has been designed to optimise privacy for occupants of the development and occupants of adjoining properties, and living areas, habitable rooms and windows to private open space areas or to the street, have been orientated to limit overlooking, and provided with fitted external screens where appropriate. The existing Viburnum hedge adjacent No.240 Warringah Road at the south east corner of the site provides effective landscape screening to the front entry area (for Boarding House and No.240 Warringah Road) and it is recommended (by condition) that this boundary hedge remain (as it is situated in the side and front setback area) as recommended in conditions.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The building has been designed with the majority of windows and principal outlook for most

boarding rooms to be toward the street frontages. Window openings and service areas (drying yard, communal open space) are designed or include appropriate screening. This includes external screens (shown on the elevation diagrams) and landscape separation to adjacent land. The erection of side boundary fencing (which provided privacy at ground level) is private arrangement that is managed under the *Dividing Fences Act 1991*.

Use of the communal area in terms on acoustic privacy/disturbance is addressed under Section 10 of the Boarding House Plan of Management, including limits on the number of persons in the outdoor terrace areas, hours of use, amplified music and general activity management to ensure no unreasonable impact on adjacent residential amenity.

- *To provide personal and property security for occupants and visitors.*

Comment:

The design of the building has appropriately located entry points (carparking, pedestrian access), window placement and boundary treatment (fence/landscape screening) to provide personal and property security for occupants and visitors that is appropriate for the surrounding residential environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

This issue has been dealt with previously in relation to the Character of the Area (Clause 30A of SEPP (Affordable Housing) 2009). In that regard, it was considered that the development is compatible with adjoining development, and satisfactorily responds to the predominant bulk and scale of development in the local area and to the topography of the site, complemented by the landscaping on the perimeter of the site and in the public domain.

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Comment:

The development has included building articulation and modulation along the side walls and steps down the site with the topography. The resultant built form does responds to the local character of the existing residential area and does not create an unreasonable visual impact when viewed from adjoining properties and streets.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$19,850 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,985,000.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

The development is considered to be compatible and consistent with the surrounding low density character that is predominantly dwelling houses in a landscaped setting. The proposal responds satisfactorily to the local character of the residential environment and as well to the local planning controls in the WDCP 2011 in terms of planning objectives relating to wall height, building envelope, setbacks, building bulk, LOS and privacy treatment. Matters relating to engineering considerations for stormwater disposal, vehicle parking, pedestrian access and safety have been addressed by the conditions and concept technical design plans provided, including *Transport NSW* requirements.

The proposal is satisfactory with regard to the provisions of SEPP (Affordable Rental Housing) 2009, subject to conditions.

The application was notified and advertised for a period of 21 days. More than 10 public submissions of objection to the proposal were received, which demonstrates a significant level of public interest in the proposal and triggering referral to the NBLPP. The principal issues raised in the submissions are whether the development demonstrates a "good fit" within the existing local character and traffic or parking related concerns. Additional concerns were also raised in relation to the suitability of boarding houses in the area, the occupancy and amenity impacts (privacy, built form and scale of the building in the local context). Matters raised in submission have been considered and addressed within this report and have been addressed by conditions where appropriate.

The proposal was subject to a pre-lodgement meeting and the advice has been followed, which included appropriate use of colours and variation in materials, changes to the roof line, landscaped, use of building setbacks and building presentation to Warringah Road and Ellis Road. Overall, the building presents a suitable scale, which addresses the streetscape and does not create unreasonable amenity or traffic and parking impacts in this location.

This assessment report has taken into consideration all public submissions, Statement of Environmental Effects, plans and other documentation supporting the application. On balance, it is considered that the proposed development responds appropriately to the development controls and will result in a suitable development outcome, subject to conditions.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2019/1480 for Demolition works and the Construction of a Boarding House on land at Lot 10 DP 6854, 242 Warringah Road, BEACON HILL, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A 003 A Lower Ground Floor Plan*	10.12.19	Macphail and Sproul Architects
A 004 A Ground Floor Plan	10.12.19	Macphail and Sproul Architects
A 005 A First Floor Plan	10.12.19	Macphail and Sproul Architects
A 006 A Roof Plan / Site Plan	10.12.19	Macphail and Sproul Architects
A 007 1 Elevations	10.12.19	Macphail and Sproul Architects
A 008 A Elevation and Section	10.12.19	Macphail and Sproul Architects

* Driveway area subject to engineering design requirements / plans.

Engineering Plans		
Drawing No.	Dated	Prepared By
Sheet 1 Notes and Standard Details	3.12.19	NITMA Consulting Engineers
Sheet 2 Erosion and Sediment Control Plan	3.12.19	NITMA Consulting Engineers
Sheet 3 Drainage Plan Ground Level	3.12.19	NITMA Consulting Engineers
Sheet 4 Drainage Plan Lower Ground level	3.12.19	NITMA Consulting Engineers
Sheet 5 Pump Well and Dish Drain Details	3.12.19	NITMA Consulting Engineers
Sheet 6 OSD Tank Details	3.12.19	NITMA Consulting Engineers
Sheet 7 Underground RWT and First Flush	3.12.19	NITMA Consulting Engineers

CC 01B Works to Ellis Road Frontage	22.6.20	Macphail and Sproul Architects
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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Section J Report	12.1.2020	Certified Energy
BASIX Report 1062086M	13.1.2020	Certified Energy
Acoustic Report - BA190910	November 2019	Blackett Acoustics
Boarding House Operational Plan of Management	12.2.2019	Rohani Developments
BCA Indicative Compliance Report	26.11.2019	Building Certificates Australia
Geotechnical & Landslip Assessment	29.10.2019	Michael Adler & Associates

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
L 001 A Landscape Plan	5.12.19	Macphail and Sproul Architects

Waste / Construction Management Plan		
Drawing No/Title.	Dated	Prepared By
A:002A Demolition and Construction Management	10.12.19	Macphail and Sproul Architects
Waste Management Plan - 242 Warringah Road	15.11.2019	Rohani Developments

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.
(Note: "interim/final" allows a Certifier to select an appropriate time or work stage to satisfy requirements of the condition)

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	10 March 2020

Transport NSW	Response Transport NSW	16 June 2020
Aboriginal Heritage Office	Response AHO	20 February 2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and

- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that

occurs on Council's property.

- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) All sound producing lift plant, door motors, air conditioning machinery or fittings and the like, to service the building must not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room (s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$19,850.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,985,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

7. **Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$20 000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

8. **Construction, Excavation and Associated Works Security Bond (Crossing / Kerb)**

The applicant is to lodge a Bond of \$15 000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

9. **Construction, Excavation and Associated Works Bond (Maintenance for civil works)**
The developer/applicant must lodge with Council a maintenance bond of \$5000 for the construction of stormwater drainage works and footpath in the road reserve. The maintenance bond will only be refunded upon completion of the six month maintenance period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be paid prior to Council issuing practical completion.

Reason: To ensure adequate protection of Council infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

10. **Amendments to the approved plans**
The following amendments are to be made to the approved plans:
- (i) The balcony for the "Managers Room" (Ground floor plan) is to be extended to have a minimum depth of 2.5m.
 - (ii) Existing ground level within 1.0 metre of the brick (side) fence boundary with No.3 Ellis Road is to be retained and not artificially filled or raised.
 - (iii) The existing *Viburnum* hedge within the front setback (adjacent No.240 Warringah Road) is to be retained to maintain the screen planting currently provides.
- Details demonstrating compliance are to be shown on the Construction Certificate plans and submitted to the satisfaction of the Certifying Authority.
- Reason: To ensure development maintains respond to design considerations for internal or external amenity.
11. **Boundary Identification Survey**
A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.
- The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.
- Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
- Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.
12. **BCA Report**
The fire safety measures as detailed and recommended in the Building Code of Australia Indicative Compliance Report, prepared by Building Certificates Australia and dated 26/11/2019 is to be taken into consideration as part of the assessment for the Construction Certificate.
- Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

13. **Laundry Facilities (Class 1)**

A Laundry facility is to be provided and designed to incorporate clothes washing facilities, comprising of at least one washtub and space in the same room for a washing machine in accordance with Part 3.8.3.2 of Volume 2 of the Building Code of Australia – 'Required Facilities'.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for building occupant health and amenity

14. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Warringah Water Management Policy PL850, and generally in accordance with the concept drainage plans prepared by Nitma Consulting, project number 4091H, sheet 1 to 9, issue C, dated 25/06/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

- i. The PSD shall be calculated on the maximum allowable fraction of 0%. Site discharge is to be restricted to the 'state of nature' flows in accordance with Council's Onsite Detention Technical Specifications.
- ii. The OSD tank outlet shall be via a sharp edged orifice cut to the exact dimension as calculated.
- iii. An overflow pipe shall be provided above the TWL within the tank and connected to the outlet pipe to prevent backflow into the garage.
- iv. Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

15. **Submission Roads Act Application for Civil Works in the Public Road**

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the *Roads Act 1993*.

The application is to include four (4) copies of Civil Engineering plans for the design of driveway crossing, footpath, reinstatement of existing driveway crossing, stormwater connection from the site to new kerb inlet pit and connection to existing council stormwater pipe which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. A left in left out driveway vehicular crossing in accordance with TfNSW letter dated 21 January 2020 and Attachment 1.
2. 1.5 metre concrete footpath along the Ellis Road frontage from Warringah Road up to the southern edge of the proposed driveway. Alignment of the footpath to be centrally located between the kerb and property boundary with grass on either side to preserve the existing street trees.
3. 1.5 metre wide footpath located along the back of the kerb between the northern edge of proposed driveway and the northern property boundary to allow for alignment with existing ground levels.
4. The footpath levels are to match the existing levels along the boundary of the site and adjoining property.
5. 1.2 metre lintel and grate kerb inlet pit in front of the subject site with a Ø 375mm RRJ RCP extension to the council pipeline.
6. 1.2 metre lintel and grated inlet pit where the council pipe crosses the kerb in front of 3 Ellis Road and intersects with the proposed extension.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

16. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

17. **Sub-Soil Seepage**

The Applicant is to submit plans demonstrating that all sub-soil seepage drainage is discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being the proposed kerb inlet pit in Ellis Road and is to be carried out in accordance with relevant Australian Standards. (Note: At the time of determination the following (but not limited to) Standards applied:

- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3 - 2003 / Amdt 1 - 2006 Plumbing and

drainage - Stormwater drainage.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate drainage and Stormwater management on site to protect amenity of residents.

18. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights/buildings/good.htm). <www.hreoc.gov.au/disability%20rights%20/buildings/good.htm>

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

19. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

20. **Construction Traffic Management Plan.**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:-

- The proposed phases of construction works on the site, and the expected duration of each construction phase;
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- Make provision for all construction materials to be stored on site, at all times;
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic.
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.

- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent;
- Proposed protection for Council and adjoining properties;
- The location and operation of any on site crane; and

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. Confirming appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner’s property rights and protects amenity in the locality, without unreasonable inconvenience to the community. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site. (DACTRCPC1)

21. Submission of Engineering Plans

The submission is to include four (4) copies of Civil Engineering plans for the design of:

- Upgrade/installation of footpaths along all frontages of the site to provide a minimum 1.5m width where practicable.

These are to be generally in accordance with the civil design approved with the Development Application and Council’s specification for engineering works - AUS-SPEC #1 and or Council’s Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for Local Traffic Committee approval.

Reason: To ensure compliance with Council’s specification for engineering works. (DACTRCPC2)

22. Waste and Recycling Requirements

Details demonstrating compliance with Warringah Development Control Plan – Part C9 Waste Management, including the required Warringah Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Warringah Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided. (DACWTC01)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**23. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members, landscape works, retaining walls, pool surrounds, and other similar items.

Property / Properties:

- o No.240 Warringah Road, Beacon Hill
- o No.3 Ellis Road, Beacon Hill

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

24. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

25. Tree trunk, branch and root protection**(a) Existing trees which must be retained**

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 25mm diameter unless directed

otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause

E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

vi) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

26. Road Authority Approvals

Appropriate approvals are required to be in place when working on/from Council and RMS roads.

The applicant is to submit to Council's Traffic Team, for concurrence, copies of the relevant Road Use Permits obtained from Traffic Management Center (TMC) for occupation of Warringah Road and Ellis Road prior to associated works commencing.

Reason: To ensure necessary approvals are in place when working on a State Road and near Traffic Signals. (DACTRDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

27. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

28. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act
- o Work Health and Safety Regulation
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

29. External Colours and Materials

DA2019/1480

The external colours and materials (including front 'open style' fencing style) is to remain consistent with that shown on the stamped approved architectural plans. The maximum fencing height to Warringah Road and Ellis Road is to be limited to 1.2m with transition (step down) sections a maximum of 1.5m above finished ground level at the boundary.

Reason: To maintain amenity considerations.

30. **Civil Works Supervision**

The Applicant shall ensure all civil works approved in the 'Section 138' approval are supervised by an appropriately qualified and practicing Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority and/or Roads Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works.

31. **Footpath Construction**

The applicant shall construct 1.5 metre concrete footpath along the Ellis Road frontage from Warringah Road up to the southern boundary. The alignment of the footpath from Warringah Road to the southern edge of the proposed driveway shall be centrally located between the kerb and the property boundary and the alignment of the footpath from the northern edge of the driveway to the northern boundary shall be along the back of the kerb. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with 'Section 138' *Roads Act* approval.
- (b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with 'Section 138' *Roads Act* approval for footpath.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of footpath works with Council's specification for engineering works.

32. **Notification of Inspections**

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter, driveway crossing
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification.

Reason: To ensure new Council infrastructure is constructed in accordance with Auspec 1 Council's design and specification standards.

33. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

34. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

35. **Protection of rock and sites of significance**

a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

36. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

37. **Road Serviceability**

The road condition along the routes within 100m of the site, shall be kept in a serviceable state at all times during the course of the project.

At the direction of the Council, the applicant's (or appropriate representative) shall undertake remedial works to repair any and all damage to the road infrastructure.

All works are to be undertaken by the applicant at no cost to Council.

Reason: To ensure the roadway stays in a serviceable state at all times during the project (DACTREDW1)

38. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan dated 15.11.2019 prepared by *Rohani Developments*.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

39. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible. (DACWTE02)

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

40. **Landscape completion certification**

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

41. **Post-Construction Dilapidation Report**

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

42. **Positive Covenant for the Maintenance of Stormwater Pump-out Facilities**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance of the pump-out facility on the property being developed. Northern Beaches Council shall be nominated in the instrument as the only party authorised to release, vary or

modify the instrument. Northern Beaches Council's delegate shall sign these documents prior to the submission to the NSW Land Registry Services. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard.

43. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of final Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

44. **Certification of Civil Works and Works as Executed Data on Council Land**

The Applicant shall submit a suitably qualified Civil Engineer's certification that the completed works have been constructed in accordance with this consent and the approved 'Section 138' plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data (details overdrawn on a copy of the approved civil plans) for Council Assets' in an approved format shall be submitted to Council for approval prior to the release of any security deposits.

Reason: To ensure compliance of works with Council's specification for engineering works.

45. **Boarding House Plan of Management**

Prior to the issuing of any final occupation certificate, certification is to be provided from the operator that the requirements of the Boarding House Plan of Management have been implemented and are compliant for ongoing operational purposes.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.
(DACHPFPOC7)

46. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

47. **Garbage and Recycling Facilities**

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To prevent pollution of the environment and to protect the amenity of the area.
(DACPLF03)

48. **House / Building Number**

House/building number is to be affixed to the building / front fence to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

49. **Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

50. **Motorbike Parking**

The location of the motorbike parking shall be relocated to ensure the access to and from the space does not occur from the Accessible 'Shared Zone'.

Details to be provided to the satisfaction of the Certifying Authority prior to the issue of the Occupation Certificate

Reason: To ensure compliance with AS2890.1:2004 and improve safety within the basement car park.

51. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with Warringah Development Control Plan – Part C9 Waste Management

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste and recycling facilities are provided. (DACWTF01)

52. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

53. **Positive Covenant for Waste Services**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to provide access to the waste storage facilities prior to the issue of an Interim/Final Occupation Certificate.

The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities (DACWTF03)

54. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (Department of Lands standard form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land. (DACWTF04)

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

55. Noise from Amplified Devices

Noise associated with any amplified music must not be audible within any residential habitable room of another premise before 8:00 am or after 10:00 pm on any Saturday, Sunday or public holiday, or before 7:00 am or after 10:00 pm on any other day.

Reason: Prevent excessive noise impacting surrounding residences (DACHPGOG5)

56. (Mechanical) Noise restrictions

Any air conditioning unit or mechanical ventilation on the site must be installed and operated at all times so as not to cause 'offensive noise' as defined by the *Protection of the Environment Operations Act 1997*. Domestic air-conditioners must not be audible in nearby dwellings between 10:00PM to 7:00AM Monday to Friday, and 10:00PM to 8:00AM on Saturdays, Sundays and public holidays.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties (DACHPGOG5)

57. Outdoor lighting

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with *Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting*. All lights used to illuminate the exterior of buildings onsite must be positioned so as to prevent the emission of direct light onto adjoining roadways, adjoining land and dwellings.

Reason: Regulate the impacts of light on adjoining residences (DACHPGOG6)

58. Compliance with the Plan of Management - Noise Management Measures

The Noise Measurement Measures in section 10 of the Boarding House Plan of Management (document reference 19.04 C005) submitted with the application are to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To ensure the premises are operated in an appropriate manner in perpetuity. (DACHPEDW2)

59. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity.

60. Occupancy of Boarding House

The building is to contain a maximum of 24 residing Lodgers and a residing Manager. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of the occupancy.

Reason: To ensure the amenity of occupants. (DACPLG23)





