

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0849
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 16 DP 23317, 10 Naree Road FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works and construction of a Boarding House development
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:	Tricon Property Group Pty Ltd
Applicant:	Michael William Williamson

Application lodged:	23/05/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	06/07/2019 to 27/07/2019
Advertised:	06/07/2019
Submissions Received:	31
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 5,081,219.79
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Executive Summary

The proposal is for a 39 room Boarding House with a basement parking area, located within the R2 Low Density Residential Zone, toward the western end of Naree Road, Frenchs Forest. The proposal is a permissible use on the site under the *Warringah Local Environmental Plan 2011* (WLEP). At this stage the site has been identified for future inclusion in the R3 Medium Density area that proposes an 11 metre (m) height limit, as part of the *Northern Beaches Hospital Structure Plan* (NBSP).

Notwithstanding this, the proposal is currently subject to *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP ARH), the *Warringah LEP 2011* and the *Warringah Development Control Plan 2011* (WDCP). The CIV excluding GST and non-capital items is less than \$5 million, therefore the

proposal is referred to the NBLPP for determination.

This assessment reveals that the development is incompatible and inconsistent with the surrounding character of low density detached dwellings. The proposal does not respond well to the local planning controls of the WDCP 2011 in terms of objectives relating to wall height, building envelope, setbacks, building bulk, landscaping and privacy. Additional concerns are also raised with regard to matters for stormwater disposal and Building Code of Australia (BCA) compliance. Other matters of concern also relate to the location and design of private open space, solar access, inadequate details for emergency egress and parking arrangements. Based on these shortcomings, it is not in the public interest to support a development that does not satisfactorily respond to the built for controls and satisfy the objectives of the applicable planning controls.

The application was notified and 30 public submissions of objection to the proposal were received. The most common planning related issue raised in the submissions is that the proposal does not represent a "good fit" within the existing local character due to excessive scale, being symptomatic of an over-development. Additional concerns were also raised in relation to the suitability of boarding houses in the area, the impacts of traffic and parking, the impact of such a high occupancy use on local amenity. The proposal is also currently subject to a NSW LEC Appeal ('deemed refusal') and while the applicant has amended the plans they are not available yet for public notification as part of the proceedings.

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 does not respond appropriately to the development controls and will result in an unfavourable development outcome pursuant to SEPP ARH, Warringah LEP 2011 and DCP 2011.

Accordingly, the application is recommended for refusal.

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 Development Control Plan - A.5 Objectives
- 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 - B7 Front Boundary Setbacks
- Warringah Development Control Plan - B9 Rear Boundary Setbacks
- Warringah Development Control Plan - C2 Traffic, Access and Safety
- Warringah Development Control Plan - C3 Parking Facilities
- Warringah Development Control Plan - C4 Stormwater
- Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
- Warringah Development Control Plan - D2 Private Open Space
- Warringah Development Control Plan - D8 Privacy
- Warringah Development Control Plan - D9 Building Bulk
- Warringah Development Control Plan - D11 Roofs

SITE DESCRIPTION

Property Description:	Lot 16 DP 23317 , 10 Naree Road FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The site is located on the northern side of Naree Road, within 140 metres of Frenchs Forest shopping centre. The site has an area of 975.5 square metres (sqm) with a width of 21.3 metres (m) and a depth of 45.7m. The land has a moderate slope toward the rear with a fall of 4.0m. Naree Road has been subject to significant road works in association with the Northern Beaches Hospital and for local traffic management. Traffic light signals are located at the intersection of Forest Way and Naree Road and a bus stop is situated 25m East of the site.</p> <p>The site currently contains a single storey detached dwelling house, shed and carport, with some medium to small trees and shrubs within the surrounding garden areas of the property.</p> <p>The site is not within a bushfire prone area or subject to flooding and is within "Area B" for landslip classification under the Warringah Development Control Plan 2011 ("DCP 2011"). There are no significant natural rock outcrops or threatened species habitat and the proposal does not contain (or adjacent too) any heritage items</p> <p>The site is located within the local area subject to the <i>Northern Beaches Hospital Precinct Structure Plan (HPSP)</i>. Under the HPSP the site is within a proposed R3 Medium Density zone for a future 11m / 3 storey height control and 1.3:1 floor space ratio. This document is not a statutory planning document.</p> <p>Surrounding development to the east, north and south is dominated by single storey detached dwelling houses within</p>

landscaped settings. While there are numerous single storey buildings in the vicinity, the residential character of development visible from the site is characterised by low density detached dwellings that are mostly two-storey.

To the south-west of the site is a church and a mix of commercial land uses, including Frenchs Forest Shopping Centre. Development to the East is comprised of low density detached housing with the Forest High School and Northern Beaches Hospital within 700m of the site. To the immediate North and South of the site is low density detached housing.

The subject site is located within Phase 2 of the *Hospital Precinct Structure Plan* (HPSP) which envisions an area of medium density residential zoning to accommodate additional dwellings that will support the role of the Frenchs Forest Town Centre.

Map:



SITE HISTORY

Development Application No.2005/0764 for alterations and additions to a dwelling house was approved by Council on 17 September 2005.

Building Application No.BA5002/9910 for alterations and additions was approved by Council in 1995.

The proposal involves the complete demolition and removal of all building structures on the site and therefore no further issues are raised with regard to previous development on the land.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent for the construction of a three-storey Boarding House,

(pursuant to SEPP Affordable Rental Housing (ARH) 2009), containing 38 lodger rooms plus the Boarding House Managers room, configured as:

- **Basement Floor** - Level RL131.6 - Car parking for 16 cars and 16 motorcycles, bicycle storage, stair and lift access, vehicle ramp, storage, communal laundry, bathroom and services room.
- **Ground Floor Level** – RL134.4 - 11 Lodger rooms, + (1) Building Managers room (each with internal bathroom and kitchenette and either a courtyard area or balcony), common laundry, facilities room, two communal rooms, storage, communal kitchen / dining room, entry area and rear private open space terrace / clothes drying area.
- **First Floor Level** – RL137.2 - 13 Lodger rooms (each with internal bathroom and kitchenette and balcony), lift and stair access, main entry, bin room, storage.
- **Second Floor Level** – RL 140.0 - 14 Lodger rooms (each with internal bathroom and kitchenette and balcony), lift and stair access. (Roof ridge RL143.46 to RL142.92).

Ancillary site work includes:

- Demolition of existing structures, excavation, site preparation and ancillary site works.
- Driveway and front entry structure with letter box's and raised planter box.
- On-site detention drainage system. An easement is proposed to be established to drain stormwater (north) through No.23 Wareham Crescent to Council stormwater system.
- Site landscaping

Determination of development applications

The proposal is required to be considered for determination by *Northern Beaches Local Planning Panel* as the development has received more than 10 relevant objections.

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. 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).
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)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p>	<p><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.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. It was noted the landscaping plan was not included with the DA documents and the landscape plan was subsequently submitted on 3 August 2018.</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. These matters may be appropriately 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). These matters may be appropriately addressed via a condition of consent.</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. These matters may be appropriately 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). 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</i> section in this report. In summary, the proposal is considered to be inconsistent 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 Recommendation.</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</p>

Section 4.15 Matters for Consideration'	Comments
	impact on the locality considering the nature of the proposed residential land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the type of land use proposed. However, there are concerns in relation to the suitability and appropriateness of the size, scale and intensity of the proposal for the site.
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	<p>This assessment has found the proposal to be contrary to the relevant provisions of the WLEP 2011 and WDCP 2011. Particularly in relation to setbacks, building bulk, landscaping and privacy considerations. The proposal is also contrary to the provisions of SEPP ARH in relation to local character and will create an undesirable precedent and undermine the achievement of the desired future character of the area and is contrary to the expectations of the community.</p> <p>In this regard, the development, as proposed, is not considered to be in the public interest</p> <p><u>Note:</u> Amended plans are being considered under the current NSW LEC Appeal No.2018/332566 that is in progress using 'Section 34' proceedings. The applicant has not granted permission as yet for the use of those plans to be publicly notified and advertised, via the Proceedings, since the amended plans are still being revised and substantially changed. Additionally, no amended supporting documents (stormwater, Basix, landscape, solar, etc) have been prepared at the conclusion to this assessment report.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited 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 31 submission/s from:

Name:	Address:
Mr Paul John Thistlethwaite	27 Wareham Crescent FRENCHS FOREST NSW 2086
Mrs Marie Claudine Brennan	8 Naree Road FRENCHS FOREST NSW 2086
Therese Webber	20 A Yarrabin Street BELROSE NSW 2085

Name:	Address:
Amy Kendall-Hewett	18 Naree Road FRENCHS FOREST NSW 2086
Christine Carter	1494 Oxford Falls Road OXFORD FALLS NSW 2100
Mrs Lauren Janice White	6 Ashdown Place FRENCHS FOREST NSW 2086
Mr Peter Cooper-Southam	21 Wareham Crescent FRENCHS FOREST NSW 2086
Mrs Rebecca Jane Schopen	71 Binalong Avenue ALLAMBIE HEIGHTS NSW 2100
Mr Grant Geoffrey Gordon	10 Woodside Grove FORESTVILLE NSW 2087
Mrs Lynne Wiblin	13 Moonbi Crescent FRENCHS FOREST NSW 2086
Mrs Sandra Elizabeth Young Mr Geoffrey Charles Young Deirdre Hatton	29 Aranda Drive DAVIDSON NSW 2085
Ms Jill Elaine Cordery	138 Blackbutts Road FRENCHS FOREST NSW 2086
Mrs Jill Lorraine Brutnell	111 McIntosh Road NARRAWEENA NSW 2099
Dennis Graham Brutnell	111 McIntosh Road NARRAWEENA NSW 2099
Ian Howe	20 Naree Road FRENCHS FOREST NSW 2086
Mr Paul Robert Warrington	23 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Eric Barry Jarvis	14 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Keith Rischmiller	19 Wareham Crescent FRENCHS FOREST NSW 2086
Jasbir Singh Dayal	23 Forest Way FRENCHS FOREST NSW 2086
Peter Evans	25 Wareham Crescent FRENCHS FOREST NSW 2086
Mrs Rosanne Knight	2 The Grove BELROSE NSW 2085
Mr David Paul Weir	21 Rabbett Street FRENCHS FOREST NSW 2086
Mrs Margaret Anne McCann	12 Wareham Crescent FRENCHS FOREST NSW 2086
David Crawford Caswell	10 Wareham Crescent FRENCHS FOREST NSW 2086
Karen Narelle Crouch	30 Rabbett Street FRENCHS FOREST NSW 2086
Mr Pierre Claude Clain Susan Clain	6 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Mauro Tamborini	16 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Peter Brent Evans	25 Wareham Crescent FRENCHS FOREST NSW 2086
Mr Les Markus Maas	6 Naree Road FRENCHS FOREST NSW 2086
Jonathan Joseph Gormley	23 Wareham Crescent FRENCHS FOREST NSW 2086
Robert Brennan	8 Naree Road FRENCHS FOREST NSW 2086

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

The matters raised within the submissions are addressed as follows:

a) Concern that the traffic report does not address the changes to Naree Road from the Roads and Maritime Service works in the local area and the proposal will create increased traffic impacts due to the intensity of use proposed.

Comment:

The proposal has been submitted with a Traffic Assessment report, which was prepared prior to the completion of works being undertaken by the Roads and Maritime Service (RMS) along Naree Road and Forest Way / Warringah Road, associated with the Northern Beaches Hospital development precinct. Council's Traffic Engineering section has considered traffic impact issues from the boarding house and determined that the proposal will not cause an unreasonable impact on the upgraded road infrastructure capacity in the surrounding area.

However, the carriageway along Naree Road has been recently widened to 4 lanes and upgraded footpaths along both sides of the road, as well as changes made to the bus stop, transit lanes and traffic signal approaches near the site. Due to the recent roadworks the proposal has not been provided with sufficient information to address the new site frontage levels resulting from RMS works to Naree Road that may affect egress from the site. In the absence of accurate engineering detail to address the transition between the road reserve and the basement carpark to the satisfaction of Council, the proposal cannot be supported.

Therefore, this issue has determining weight and warrants refusal of the application.

b) Concern that the proposal will create increased parking demand in the surrounding streets due to inadequate public transport and need for carparking on site for the intensity (capacity) of use.

Comment:

Parking is not convenient at the front of the site as there is a public bus stop located within 25m of the site. The site is also within easy walking distance to the bus interchange at Frenchs Forest shops. In terms of carparking, the proposal has been assessed by Council's Traffic Engineers in terms of potential parking impact on the adjacent available street parking. The site is not in a location that has convenient street parking due to the new transit lanes in Naree Road. Therefore, any lack of on-site parking would require those occupants or visitors to park in the surrounding streets. The proposal does not comply with the minimum requirement of the SEPP ARH and the location of any parking spaces within the side setback and front setback is not supported.

Therefore, it is considered that the proposal demonstrates an over-development of the site and would therefore contribute to increased parking pressure in the surrounding streets.

This issue is considered to carry determining weight and warrants refusal of the application.

c) Concern that a boarding house of this scale for 39 boarding rooms 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 area that permits the use. There is no inconsistency between the SEPP and the WLEP in this case.

With respect to site suitability, convenient access to local shops is generally considered an advantage for more intense residential land uses. Larger groups of local shops, such as those at Frenchs Forest shopping centre, offer convenience and greater choice for residents, and often ancillary services from other service based businesses that may be co-located at a local shopping centre.

Proximity to schools and shops also affords opportunities for potential employment for occupants of the boarding house, which reduces dependency on transport services to access the employment and services further afield.

It is considered that the proposal is symptomatic of an over-development of the site and is unsatisfactory in terms of the unsympathetic design that is out of character its setting, lack of landscaping, excessive building bulk and general low design amenity.

Therefore the proposal is considered to be unsuitable for the site and the site which is too small and narrow for the size and scale of the proposal. This issue is considered to carry determining weight and warrants refusal of the application.

d) *Concern that the boarding house occupancy is too high for the site to reasonably accommodate the building and the building will be used for transient occupants in an area predominantly used for permanent family residences.*

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 OPM.

The issue of transient occupancy is therefore addressed by the OPM and does not warrant refusal of the application.

e) *Concern that the proposed density of housing for the boarding houses in the local area is unsuited to the streetscape location and is an inappropriate design for the site, including by amenity and privacy impacts.*

Comment:

The density of the proposal in terms of the number of rooms within the building and the overall size of the building has been raised by the majority of respondents in public submissions. Concerns in relation to density, scale and bulk of the development have been raised with the applicant in terms of the visual impact on adjacent residential properties and the development "fitting-in" with the local character of surrounding residential development. The building bulk, scale, floor space and ratio of landscaping to building area are discussed in detail within this report under the *Part D1 Landscaped Open Space* and *Part D9 Building Bulk*. In summary, the proposed design with respect to building bulk and landscaped open space is considered to be unsatisfactory.

Consideration of the building bulk is also discussed in detail under the headings *SEPP ARH* within this report with respect to neighbourhood character. Overall an appropriate design response has not 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.

Therefore, this issue has determining weight and warrants 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. Of particular concern is the manner in which the proposal fails to satisfy design objectives for landscaped open space, front side and rear setbacks, including building envelope and wall height.

As the proposal is assessed as being unsatisfactory, this issue is considered to carry determining weight and warrants the refusal of the application.

g) *Concern that the building bulk is excessive for the site and will adversely affect the streetscape 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 proposed boarding house is considered to be inconsistent with the surrounding residential character along Naree Road (visual catchment near the site) and when viewed from properties adjacent in Wareham Crescent. It is considered that the proposal does not respond favourably to the SEPP and DCP design requirements including building bulk, landscaped open space and side and rear setbacks. In summary, the proposal has excessive building bulk and scale and does not protect the amenity of adjacent land and the streetscape.

This issue should be given determining weight and warrants the refusal of the application.

h) *The boarding house proposed leads to poor planning outcomes due to non-compliances and gradual diminishing of the character of the area by more and more intensive boarding house development.*

Comment:

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. However, the proposal does not provide a satisfactory urban design outcome when assessed against the "*character test*" as prescribed in the SEPP and the relevant DCP controls. In this regard, the proposal does not satisfy DCP requirements for landscaped open space, building bulk, and privacy. Inconsistencies have also been identified against the SEPP in terms of solar access to communal living areas and carparking requirements to service the nature and scale of the proposal.

Therefore, the proposal has not been designed to satisfy the character controls under the SEPP, WLEP and WDCP. Accordingly, for these reasons, the proposed development is likely to diminish the character of the area and so this issue should be given determining weight and warrants the refusal of

the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p><i>The application proposes to construct a boarding house with a total of 39 sole-occupancy units and associated car parking. The proposed development has an effective height of less than 12 m, is required to be of "Type A" construction and contains 3 storeys of residential apartments situated on top of a basement car parking level.</i></p> <p><i>No objections subject to conditions.</i></p> <p><u>Planning Comment:</u> The implementation of fire safety and egress conditions will trigger further changes to the plans due to the unsatisfactory design of the building as proposed. In this regard, the proposal is not supported and is recommended for refusal.</p>
Environmental Health (Industrial)	<p><i>No objection to approval subject to conditions to ensure compliance with Australian Standards as applicable.</i></p>
Landscape Officer	<p><u>Landscape Assessment</u></p> <p><i>There are a number of aspects of the proposal which are contrary to the local planning controls, the sum of which leads to a significantly different character in the locality than that envisaged by the controls, or indeed are currently evident in the vicinity of the site.</i></p> <p><i>Issues with which concern is raised include:</i></p> <ul style="list-style-type: none"> • <i>The quantum of compliant landscaped open space being well under the requirements of the local controls</i> • <i>The lack of soft landscape along both side setback boundaries</i> • <i>Location of parking and communal room within the front setback</i> • <i>The quantity of hard landscape in the rear setback.</i> • <i>The resultant incompatibility with the character of the local area</i> <p><i>In view of the issues raised above, the proposal is not considered to be compatible with the streetscape in which the building is located and the design of the development in relation to landscape issues is not considered to be compatible with the character of the local area.</i></p> <p><i>The proposal is not supported with regard to landscape issues.</i></p> <p><u>Planning Comment:</u> The assessment considerations and comments detailed within the landscape assessment are not supported and warrant refusal of the application.</p>
NECC (Development Engineering)	<p><i>Development Engineers have reviewed the proposal and advise the proposal cannot be supported due to the following reasons:</i></p> <p><u>Vehicle access</u></p> <p><i>1. Engineering longitudinal sections on both sides of the proposed driveway are to be</i></p>

Internal Referral Body	Comments
	<p><i>submitted to Development Engineers for assessment. Longitudinal sections must include existing and proposed finished ground surface levels. The applicant is to incorporate one Council's standard driveway profiles between the kerb alignment and property boundary. applicant is to also incorporate an updated RMS Property Works drawing consistent with location of proposed vehicle crossing for the development. Development Engineers are in receipt of the above documentations.</i></p> <p><i>2. The proposed vehicle crossing is located close to the existing light pole on the grass verge and may need to be re-located provide sufficient clearance to the pole. Written approval/requirements from Ausgrid must be provided to comply with the above. Development Engineers are not in receipt of the above documentations.</i></p> <p><u>Stormwater drainage</u></p> <p><i>3. Council is not in receipt of any evidence indicating that the downstream property owner is prepared to grant drainage easement for the development.</i></p> <p><i>4. Insufficient details are submitted to demonstrate stormwater disposal to Council's drainage infrastructure in Wareham Crescent complies with Council's requirements. In this regard, an engineering longitudinal section through the outlet pipe from the OSD system to the connection into the Council system must be provided. This longsection is to show design invert levels, finished surface levels, pipes size, design flows, all utility services that may cross the line and a hydraulic grade line.</i></p> <p><i>Note: It is the responsibility of the Applicant to provide full details of all relevant services that may conflict with the proposed OSD system(s) and stormwater lines. The exact location of any crossings or connections are to be shown.</i></p> <p><i>5. In order for Council to adequately check the design of the OSD system, when the DRAP program is used, the input data and summary information including a copy of the model on a computer disc must be provided. Sufficient details must be submitted to demonstrate the discharge (controlled and un-controlled) off the development site is restricted to the 'state of nature' condition, as per section 4.3 of Council's On-site Stormwater Detention Technical Specification. Development Engineers are not in receipt</i></p> <p><i>Not supported for approval due to lack of information to address:</i></p> <ul style="list-style-type: none"> <i>• Stormwater drainage for the development in accordance with Part C4 Stormwater of the WDCP</i> <i>• Vehicle access for the development in accordance with Part C2 Traffic, Access and Safety</i> <p><u>Planning Comment:</u> The development engineering assessment and comments are supported and warrant refusal of the application.</p>
Road Reserve	<p><i>The recent roadworks by the RMS have changed road levels and road carriageway alignment (by reducing lane widths) to avoid driveway adjustments to the existing properties. This will require redesign of the driveway long-section to accommodate changes in road levels and future realignment of the road carriageway to achieve acceptable geometric road design</i></p>

Internal Referral Body	Comments
	<p><i>the future.</i></p> <p><i>Refusal recommended as the new driveway road reserve levels have not been confirmed.</i></p> <p><u>Planning Comment:</u> Insufficient design detail has been provided by the applicant to ensure the design complies with the requirements of Councils Road Assets section to ensure finished levels within the road reserve are safe. This issue warrants refusal of the application.</p>
Strategic and Place Planning	<p><u>Strategic Planning Comments</u></p> <p><i>This application has been referred as the subject site is identified within Phase 2 of the Northern Beaches Hospital Precinct Structure Plan (HPSP). The HPSP was adopted by Council on 17/11/2017.</i></p> <p><i>The subject site is currently zoned R2 Low Density Residential under WLEP 2011 and development consent is required for the demolition of the existing dwelling and construction of a three-storey building comprising a 39 room boarding house.</i></p> <p><u>Northern Beaches Hospital Structure Plan</u></p> <p><i>The HPSP provides the strategic land use planning framework for Frenchs Forest over the next 10 years. The HPSP is not a statutory document. Under the HPSP, the site is proposed to be zoned R3 Medium Density Residential. The HPSP also proposes a maximum building height of 11m and a maximum floor space ratio of 1.3:1.</i></p> <p><i>The subject site is identified within Phase 2 of the HPSP. Phase 2 is reliant on the delivery of significant regional road works, including the proposed Beaches Link Tunnel, and an east-west rapid transit system from Chatswood to Dee Why. Implementation of Phase 2 is identified in the medium term (approximately 10 years). Council's priority is the implementation of Phase 1 which includes the future Frenchs Forest Town Centre site, the new Hospital, and some adjoining and nearby properties. Phase 1 will also include the provision of Affordable Rental Housing with the Town Centre providing 15%, and the adjoining and nearby properties providing 10% Affordable Rental Housing.</i></p> <p><u>Detailed Consideration</u></p> <p><i>The application was supported by a Statement of Environmental Effects which provided an assessment of the Proposal against the SEPP (Affordable Rental Housing) 2009.</i></p> <p><i>As noted, the Subject Site is located within Phase 2 of the HPSP which envisions an area of medium density residential zoning to accommodate additional dwellings that will support the Frenchs Forest Town Centre. While the HPSP may not be a Statutory Document, it does align with the objectives and goals of the North District Plan and Sydney Metropolitan Plan in designating Frenchs Forest as both a Collaboration area and a Strategic Centre within the Northern Beaches LGA.</i></p> <p><i>In this regard, the subject Proposal is out of context with the vision for the HPSP and desired character of the area. The broader strategic objective for Strategic Centres is to provide services, employment, and housing to the Northern Beaches growing population - these matters have been carefully considered through the ongoing collaboration between Council, the NSW Department of Planning and Infrastructure.</i></p>

Internal Referral Body	Comments
	<p><i>Planning & Environment, and other relevant State Agencies resulting in a Structure Plan that identifies the most appropriate areas and forms of growth, including housing and affordable housing.</i></p> <p><i>Additionally, the proposal has not addressed the impact of the existing 33kV overhead transmission and 11kV distribution Ausgrid assets that run along the northern side of Naree Road. These power lines have specific setback requirements which have not been appropriately considered within the documents submitted by the Applicant. Undergrounding the powerlines is encouraged and further advice from Ausgrid would be required.</i></p> <p><i>The application should not be supported for the following reasons:</i></p> <ul style="list-style-type: none"> <i>• It is consistent with Council's adopted HPSP, which provides the strategic land use planning framework for Frenchs Forest over the next 20 years;</i> <i>• It proposes a form of development that is inconsistent with the objectives of the Strategic Centre and Collaborative area where dwelling densities and types have already been identified and located;</i> <i>• It will establish a precedent for the lodgement of applications for boarding houses using SEPP (Affordable Housing) 2009 which could impact on the overall functional role of Frenchs Forest as a Strategic Centre for the Northern Beaches;</i> <i>• No consideration has been made to the impacts of the existing Ausgrid power lines along Naree Road on the development, including setback requirements on the site frontage.</i> <p><u>Greater Sydney Region Plan</u></p> <p><i>Inconsistent - Frenchs Forest has been designated as a Strategic Centre, Planned Precinct and Collaboration Area capable of accommodating investment and growth. The subject proposal would undermine the objectives of the strategic centre by sterilising the site for growth and reducing its potential to accommodate additional dwellings.</i></p> <p><u>North District Plan</u></p> <p><i>Inconsistent - The North District Plan reinforces the role of Frenchs Forest as a Strategic Centre, Planned Precinct and Collaboration Area. The subject proposal will undermine the site's ability to contribute to the objectives of the centre.</i></p> <p><u>Northern Beaches Hospital Precinct Structure Plan</u></p> <p><i>Inconsistent - the proposal is out of context with the vision for the Frenchs Forest area.</i></p> <p><i>In conclusion, the application is not acceptable and is recommended for refusal based on the broader strategic planning outcomes for the area and inconsistency with Council's adopted Structure Plan.</i></p> <p><u>Planning Comment:</u></p>

Internal Referral Body	Comments
	<p>Comments by Council's Strategic Planner are concurred with and the issues raised warrant r of the application.</p>
<p>Strategic and Place Planning (Urban Design)</p>	<p>The proposal in its current form cannot be supported for the following reasons:</p> <p><u>SEPP Affordable Rental Housing (ARH) 2009</u> <i>Clause 29(2) Wall Height Maximum Storeys and Rear Setbacks</i> The following controls under the Affordable Rental Housing SEPP have not been compli with;</p> <ul style="list-style-type: none"> a. Maximum wall height – 7.2m b. Rear setbacks – 6m c. Number of Storeys <p>RESPONSE Wall heights exceed 7.2 metres in several locations on north eastern and south eastern ; of the building. Rear Setback zone has built structures encroaching in the setback zone. The number of storeys exceeds the 2 storey control-building height of 8.5m.</p> <p><u>Clause 30 A – Character of Local Area</u></p> <p>RESPONSE The proposal is not compatible with the character development in the local context. The proposal needs to be compatible with the architectural form and style of the established I rise detached dwelling character.</p> <p>The proposal will have unacceptable impacts on the amenity of neighbouring properties.</p> <p>The impacts described above can be minimised with a considered modulation and articu of building form across the site in a well-considered landscape setting.</p> <p>Strict compliance with the built form controls is required. Deletion of the upper storey is required. Site Planning and apartment orientation is not optimised for solar amenity or int site amenity.</p> <p>Smaller scale development of pavilion style buildings stepping down the site in sympathy the contours along with internal courtyard landscaped open space zones between pavilic will result in a smaller development footprint addressing the locality of smaller detached dwellings. This may also assist to address solar and cross ventilation amenity with orient of apartments optimising the northerly aspect. The site topography is optimal for this type development. This strategy of a centralised courtyard will also address the landscape open space requirement of 40%. See comments below.</p> <p><u>Warringah LEP 2011</u> 2. Built Form Controls:</p> <p><i>Aims of the LEP in relation to residential development, are to:</i></p>

Internal Referral Body	Comments
	<p><i>(d) (i) protect and enhance the residential use and amenity of existing residential environments, and</i> <i>(ii) promote development that is compatible with neighbouring development in terms of b scale and appearance, and</i> <i>(iii) increase the availability and variety of dwellings to enable population growth without adverse effects on the character and amenity of Warringah.</i> <i>(f) (i) achieve development outcomes of quality urban design, and</i> <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>RESPONSE 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 broken up into similar bulk relief to be in sympathy with the neighbouring houses. A pavilion style development (3 x pavilions with landscape open courtyards between) will provide a less intense development.</p> <p>The elevation from the street has an overbearing impact on the immediately adjacent properties. Being the corner allotment with sloping topography the development will have the perceived effect of over development and greater impacts on the streetscape, with a building bulk that is not in keeping with the local character. A considered response to the site coverage and appropriately distributed open landscape and open space to achieve a development that is more in sympathy with the surrounding neighbourhood and optimises orientation for internal amenity is required.</p> <p>Warringah DCP 2011 <i>B1 – Wall Heights</i> <i>Requirements</i> 1. Walls are not to exceed 7.2 metres from ground level (existing to the underside of the roof on the uppermost floor of the building (excluding habitable areas wholly located within a roofspace)).</p> <p>RESPONSE Deletion of the upper storey will assist to address the non-compliance of the 7.2m wall height control. Almost all instances of common walls are between 8-12 metres high. A reduction in height to bring the development within the 8.5m height control is required.</p> <p><i>B3 – Side Boundary Envelope</i> <i>Requirements</i> 1. Buildings on land shown coloured on the DCP Map Side Boundary Envelopes must be within a building envelope determined by projecting planes at 45 degrees from a height of 4 metres above ground level (existing) at the side boundaries of: 4 metres</p> <p>RESPONSE The side boundary envelope is encroached in Section EE. Deletion of the upper storey will assist to comply with this control.</p> <p><i>B7 Front Boundary Setbacks</i></p>

Internal Referral Body	Comments
	<p><i>Objectives</i></p> <ul style="list-style-type: none"> • <i>To create a sense of openness.</i> • <i>To maintain the visual continuity and pattern of buildings and landscape elements.</i> • <i>To protect and enhance the visual quality of streetscapes and public spaces.</i> • <i>To achieve reasonable view sharing.</i> <p><i>Requirements</i></p> <ol style="list-style-type: none"> 1. <i>Development is to maintain a minimum setback to road frontages.</i> 2. <i>The front boundary setback area is to be landscaped and generally free of any structures, basements, carparking, site facilities other than driveways, letter boxes, garbage storage areas and fences.</i> <p>RESPONSE</p> <p>Compliance with the front boundary setback requires the setback zone to be free of structures. The proposed carpark structure under the front setback does not allow for application of deep soil planting zone. Planning of structures under this area should be deleted or have depth sufficient for deep soil planting zones above. Where deep soil zones are proposed side setbacks the same condition applies.</p> <p><i>B9 – Rear Boundary Setbacks</i></p> <p><i>1 Objectives</i></p> <ul style="list-style-type: none"> • <i>To ensure opportunities for deep soil landscape areas are maintained.</i> • <i>To create a sense of openness in rear yards.</i> • <i>To preserve the amenity of adjacent land, particularly relating to privacy between buildings.</i> • <i>To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.</i> • <i>To provide opportunities to maintain privacy between dwellings.</i> <p><i>Requirements</i></p> <p><i>. . . The rear setback area is to be landscaped and free of any above or below ground structures . . .</i></p> <p>RESPONSE</p> <p>Clothes lines in this area are considered structures that would require hard landscaping/pavements for the use of the facility by the residents. This structure/area should be relocated and not fall within the rear setback area.</p> <p><i>D1 Landscaped open space and bushland setting</i></p> <p><i>2 Requirements</i></p> <ol style="list-style-type: none"> 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> <ol style="list-style-type: none"> 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 excluded from the calculation;</i> b) <i>The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;</i> c) <i>Landscaped open space must be at ground level (finished); and</i> d) <i>The minimum soil depth of land that can be included as landscaped open space is 1 m</i>

Internal Referral Body	Comments
	<p>RESPONSE</p> <p>The required landscaped open space has not been achieved. Additional landscape open space is required to comply with the control.</p> <p>Built structures including hard surface paved areas are not to be included in the landscape open space calculation.</p> <p><u>Planning Comment:</u></p> <p>The detailed strategic and urban design comments provided are concurred with and warrant refusal of the application as the proposal is symptomatic of an over development of the site with unsatisfactory urban design outcomes to integrate with the local character.</p>
Traffic Engineer	<p>The proposal is for construction of a boarding house development comprising 39 boarding rooms, including on site manager's accommodation. The proposed basement car park provides 16 car parking spaces and 16 motorbike and bicycle spaces.</p> <p>The design of the car park, driveway and the circulation areas are to be in compliance with Australian Standards AS2890.1:2004. In this regards, AS2890.1:2004 requires the driveway longer than 20m (including the transitions) to be maximum of 1 in 5 (20%) steep with the maximum of 1:8(12.5%) for the minimum length of 2m on both ends to prevent bottoming at the driveway. The applicant shall modify the design to reflect the above.</p> <p>Traffic generation resulting from the proposal is not considered to have significant impact on the road network and is acceptable.</p> <p>The distance to the closest bus stop is within 50m from the site, which meets the SEPP requirement.</p> <p>In view of above, no objection is raised on the proposal subject to conditions.</p> <p><u>Planning Comment:</u></p> <p>There are unsatisfactory design elements to the proposal with respect to the carpark layout (encroachment within the side setbacks) and gradients. Therefore, these issues warrant refusal of the application, however this is discussed in detail under the planning assessment for the proposal.</p>
Waste Officer	<p>The waste services bin area has been assessed and is satisfactory subject to conditions.</p> <p><u>Planning Comment:</u></p> <p>No detailed planning comments required.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to <i>Ausgrid</i> . 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.
NSW Roads and Maritime Services (Traffic Generating)	The proposal was referred to the NSW <i>Roads and Maritime Service (RMS)</i> due to potential impact within the Northern Beaches Hospital

External Referral Body	Comments
Development)	Precinct where the RMS is carrying out extensive roadworks. The RMS responded on the 1 June 2018 with no comments and no objections raised and no requirement for RMS conditions.

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 R2 Low Density Residential 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 <i>R2 Low Density Residential zone</i> 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 Naree Road that provide a continuous path of travel to the nearest bus stops. A <i>Traffic and Parking</i> report has been submitted by the applicant detailing access and details of available bus services to satisfy this clause.
(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	Not applicable. The site is located within the Sydney region.

those zones.

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 existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing	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. However, the land is subject to review for the Northern Beaches Hospital (NBH) precinct being considered for an R3 Medium density rezoning to permit residential flat buildings. No draft LEP has been exhibited for this at	Not applicable.

	<p>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>	<p>present. However, the proposal exceeds (i) were it to apply in the future as forecast in the Northern Beaches Hospital Precinct Structure plan.</p>	
<p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>			
(a) building height	<p>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,</p>	<p>The maximum building height complies with the 8.5m building height control under the WLEP 2011 (as per <i>existing ground level</i>).</p>	<p>Compliant: 8.5m</p>
(b) landscaped area	<p>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p>	<p>The proposed landscaping is not compatible with the existing character of the local area. The front setback has limited opportunity for deep soil planting and would not provide a landscaping setting to soften the proposed built form. The majority of landscaping is not at natural ground level, instead occurring within an excavated level or within planter boxes.</p>	<p>Inconsistent</p> <p>Landscaping is inadequate and is incompatible with the existing streetscape (low density development with dense landscaping and wide front setbacks).</p>
(c) solar access	<p>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,</p>	<p>Communal living rooms "1"(G19) and "2" (G15) provided are partly below ground level and have a low standard of amenity / aspect.</p> <p>Communal room 3 (G07) is at the rear (north) and complies with solar access requirements.</p>	<p>Consistent for room communal room G07.</p>

<p>(d) private open space</p>	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <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>	<p>(i) A private open space area of more than 20 sqm is provided with minimum dimensions of more than 3.0m within the rear setback.</p> <p>(ii) A private open space area of 2.1m x 4.3m is provided adjacent Room G06 for the Manager. The area of the open space terrace is 9.3sqm.</p>	<p>Compliant (Usable terrace area of 3.4m x 9.4m)</p> <p>Does not comply (The minimum dimension of 2.5m is compromised to 2.1m by side setback structures and its excavated & walled location has poor amenity).</p>
<p>(e) parking</p>	<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>The building contains 38 boarding rooms plus an on-site managers boarding room and is not being carried out by a social housing provider.</p> <p>Nineteen (19) car spaces are required for lodgers (+ 1 Manager car space)</p>	<p>Does not comply</p> <p>Note: The basement area significantly encroaches within the front and side setback areas which in order to comply with setbacks would reduce the parking spaces to 6 (including a manager car space.)</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,		
(f) accommodation size	<p>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:</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>Ground Floor Level</p> <p>Room G01 = 16.5 sqm (2)</p> <p>Room G02 = 16.5 sqm (2)</p> <p>Room G03 = 16.5 sqm (2)</p> <p>Room G04 = 16.5 sqm (2)</p> <p>Room G05 = 16.5 sqm (2)</p> <p>Room G06 = 16.5 sqm (2)</p> <p>Room G07 = 16.5 sqm (2) Manager</p> <p>Room G08 = 18.0 sqm (2) Accessible</p> <p>Room G09 = 18.0 sqm (2) Accessible</p> <p>Room G11 = 15.0 sqm (1)</p> <p>Room G12 = 15.0 sqm (1)</p> <p>Room G13 = 15.0 sqm (1)</p> <p>Room G14 = 15.0 sqm (1)</p> <p>Level 1 Floor</p> <p>Room 101 = 15.5 sqm (1)</p> <p>Room 102 = 15.5 sqm (1)</p> <p>Room 103 = 15.0 sqm (1)</p> <p>Room 104 = 15.0 sqm (1)</p> <p>Room 105 = 15.0 sqm (1)</p> <p>Room 106 = 15.0 sqm (1)</p> <p>Room 107 = 18.5 sqm (2)</p> <p>Room 108 = 18.5 sqm (2)</p> <p>Room 109 = 18.5 sqm</p>	<p>Consistent</p> <p>However, the plans submitted with the DA show double beds for each room, which indicates 2 lodgers per room and room areas shown on the plans include bathroom and kitchen space which cannot be included as room GFA.</p> <p>The applicants OPM indicates that the total number shall not exceed 77 persons. However a total 55 persons based on room floor space as per SEPP. (A room GFA must be 16 sqm to be counted for 2 persons)</p> <p>Based on room sizes, the application must be assessed against the highest occupation for each room. Therefore, there is a fundamental inconsistency in the documentation supporting the application under the Boarding House Management Plan (Section 4.0).</p>

	<p>(2) Room 110 = 18.0 sqm (2) Room 111 = 18.5 sqm (2) Room 112 = 18.5 sqm (2) Room 113 = 15.0 sqm (1) Level 2 Floor Room 201 = 15.5 sqm (1) Room 202 = 15.5 sqm (1) Room 203 = 15.0 sqm (1) Room 204 = 15.0 sqm (1) Room 205 = 15.0 sqm (1) Room 206 = 15.0 sqm (1) Room 207 = 15.0 sqm (1) Room 208 = 15.5 sqm (1) Room 209 = 15.0 sqm (1) Room 210 = 15.0 sqm (1) Room 211 = 15.0 sqm (1) Room 212 = 15.0 sqm (1) Room 213 = 15.0 sqm (1) Room 214 = 12.0 sqm (1)</p>	
<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>All rooms have a private kitchen and bathroom facilities.</p>	<p>Consistent</p>
<p>(4) A consent authority may consent to development to which this Division applies</p>	<p>Not supported.</p>	<p>Consent authority does not consent to the development to which this Division applies due</p>

	whether or not the development complies with the standards set out in subclause (1) or (2).		to low amenity and undesirable design response in the proposal seeking compliance to the standards set out.
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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,	A communal living room is located at the rear (ground floor level) of the building.	Compliant. The 3 communal rooms have a low standard of amenity or will impact on the amenity of neighbour's due to the narrow spatial separation, intensity of use, location within the building and orientation.
(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 BHMP that no rooms are to have more than 2 person occupancy. The GFA calculated allows for 55 persons, not 77 as per the BHMP	Compliant, subject to conditions to restrict occupancy.
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room has its own kitchen and bathroom facilities. There is a communal kitchen for the building. BCA requirement would require this to be an enclosed space for fire safety. This is not shown on the plans and the applicant has not addressed this requirement.	Compliant, subject to conditions.
(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 38 lodger rooms and Room G06 has been allocated for a manager occupancy.	Compliant
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of	Not applicable	Not applicable

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,		
(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.	One (1) bicycle spaces and eight (8) motorcycle spaces are required.	Compliant. 16 bicycle spaces and 16 motorcycle spaces are proposed. The majority of these spaces are accessed through the disabled persons loading / parking space. (Note: The basement area significantly encroaches within the front and side setback areas, which in order to comply with setbacks, would reduce the motor bike parking to 4 spaces and pushbike to 1. This would make the development non-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

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".

Compatibility of the Proposal with Surrounding Development

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 majority of residential buildings in the vicinity of the site are either single storey or two storey detached dwellings in landscaped settings. This has established the predominant character of residential development in the area despite the prospect of a future rezoning to allow medium density development along Naree Road. Other development in the vicinity includes Forestville shopping centre, a church, business uses (such as consulting rooms), a boarding house (fronting Forest Way) and some independent "senior's living". On the whole the character of the area remains as low density residential within the visual catchment of the site.

The major development of the Northern Beaches hospital is visible from the site since it is located on a high point adjacent the Forest High School, only 600m East. The site is not within a heritage conservation area.

The proposal has a partly excavated ground floor level with a basement below. Excavation of the ground floor level which assists to enable a third storey level is inconsistent with the existing dwellings adjacent the site. Even though the ground floor area will be substantially screened by boundary fencing the increase bulk and scale is obvious and jarring by comparison with adjacent houses surrounding the site. The proposal also is distinctly out of character with the landscaped setting of surrounding residential development. There is a need to retain an effective landscape setback of 3.0m to 4.0m along both sides of the building to provide a sufficient deep soil screen landscape setting to soften the architectural character and assist with privacy and amenity. Such setbacks must incorporate trees and shrubs beside the driveway and pathway areas. Given that the character of the area is being considered for medium density the need for generous side setback and a residential design reflective of future medium density is critical. The proposal is fundamentally inconsistent with the medium density housing controls for apartment style development.

Currently the proposed boarding house is "jarring" in its streetscape appearance being out of context to surrounding houses creating an abrupt change in bulk and scale by virtue of its broad building footprint, 3 storey appearance and lack of landscaped setting. This is by comparison to the surrounding detached dwellings and includes consideration of the expected outcomes for future medium density development being considered along this section of the street.

In this regard, it is considered that the bulk, scale and massing of the development is incompatible with the streetscape and inconsistent 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:

The proposal is substantially greater in size than surrounding dwelling houses and this is expected considering it is a boarding house building. However, the 25 metre long building is one continuous 3 storey built form and it is not broken-up with generous breaks or modulated for the ground or upper storey. Additionally, the narrow side setbacks without stepping-in or providing space to enable sufficient landscape space gives insufficient relief along the side elevations.

The design solution for the site lies in breaking the built form up into connected modules or pavilions and not excavating basement areas close to the boundaries. This will enable a landscape setback and bulk and massing of the ground and upper floor to be broken down (modulated / articulated). This is to generate a character that involves a landscape setting similar to adjacent land and a compatible ground floor footprint with less building bulk at the upper floor levels compared to the lower floor level. This includes relief to surrounding properties and the street to ensure a built form that is compatible with the character of the area, including future character.

Overall, the development is considered to be over-sized compared to the scale of surrounding development and fails to incorporate fundamental meaningful design measures to respect and respond to the context and built form of its surroundings. Additionally future development controls are likely to introduce apartment buildings with generous landscape setbacks and quality apartment design outcomes. On this basis, the proposal is inconsistent with this 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:

The site has a few principal physical characteristics of slope, width and landscape setting to deal with. The most significant trees are situated toward the rear of the site and on adjoining land, particularly to the north. Hence, that vegetation should not be unnecessarily removed when it can be retained to screen the building in the long term. The building will be visually dominant when viewed from Naree Road and adjacent residential land on all sides without adequate screening. Insufficient landscaped area has been allocated in the form of side and rear setbacks to ensure generous and effective LOS is provided and commensurate with the scale of the building to ensure effective screening. The side terraces and terrace areas at the rear of the building will compromise the opportunity to retain landscape side setbacks that are characteristic of the surrounding land use pattern are likely to remain a desirable feature of any future medium density development near the site. Of relevance to considerations of the future local character is that the site is being considered for inclusion with a future zoning change along Naree Road to R3 Medium Density that will likely have a 50% LOS requirement. Therefore, the quantum of landscaping on the site should be reflective of this and distributed evenly around the building footprint providing a similar amount of LOS.

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 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 materials and building form is represented in the plans numbered "DA01 to DA150" including the accompanying photomontage DA405, drawn by *Hames Sharley*. The building form uses a contemporary 'mansard' style design which is uncharacteristic of the local area. The introduction of balcony spaces along both side setbacks poses a significant change to privacy for adjacent properties. The practical utility of these balcony spaces is questionable considering the narrow dimensions and limited solar access.

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

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 is assessed as consisting of constraints on the development potential of surrounding sites, 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 will be required to maintain a dominant landscape setting and spatial separation. The design of the proposal should therefore have regard to maintaining the neighbourhood character considering the urban design outcomes expected with any future changes as a result of the HPSP.

Privacy

The design of the proposed boarding house will create a considerable impact on adjacent dwellings due to the high capacity of occupancy. This includes the communal area at the rear of the site having inadequate landscape separation and the lack of landscape buffer along the side setbacks. The design response chosen to use high level windows and high balcony screens and high fencing create a "hardened" appearance to the building and unacceptable amenity impacts by comparison to the landscaped setting of the neighbourhood.

Overshadowing

Overshadowing details are shown on the plans, drawn by *Hames Sharley*, dated 5/4/2018, and demonstrate that the proposal will maintain 3 hours of sunlight to adjacent properties (existing private open space) between 9am and 3pm on 21 June. Within the proposed building the balcony spaces shown for the boarding rooms, including the ground level terraces have a low amenity standard due to overshadowing created by the high fencing, high screens and building design itself. Therefore, while the building complies with overshadowing requirements to adjacent land solar amenity within the building for its occupants is unacceptable particularly at the lower two residential levels.

Noise

The 38 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 should 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.

While there is proposed to be an OPM in place for the management of the boarding house, there is no on-site manager to enable any immediate response to any noise disturbances. In this regard, it is considered the rear private open space and communal living area should have an improved integration with the building to buffer noise impacts from adjacent land, include acoustic walls and a much wider densely landscaped buffer to the rear setback. In addition to this, no details are provided as to air conditioning units that may be needed for each room and where they may be installed as many are single aspect.

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 unsatisfactory with respect to how it responds to the existing character of the local area and the public interest. The excessive bulk, inadequate landscaping, narrow setbacks and bulky built form does not ensure an acceptable design outcome.

In this regard, the proposal does not put forward a good design response to the requirements of the WDCP 2011 in terms of setbacks, privacy, landscaping, private open space and building bulk. While the SEPP permits a higher density and occupancy of use on the land, the proposal does not adequately respond to ensure a "good fit" within the low density residential surroundings and maintain 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 create an unfavourable development precedent that is not in the public interest and so this matter warrants the refusal of the application.

Conclusion

The development is not supported for reasons of; inconsistency with the surrounding local character, excessive massing on the top floor and unsympathetic roof design, inadequate landscaped open space buffers, inadequate parking and side setbacks and potential 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 relevant to SEPP Basix. A Basix report has not been submitted.

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

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.

Other Service Infrastructure Authorities

The application was not required to be referred to the *Roads and Maritime Service* (RMS) and 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?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.32*m	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

To provide for the housing needs of the community within a low density residential environment.

Comment:

The proposed boarding house is a type of housing that is permitted within the *R2 Low Density Residential* environment. Boarding houses contribute to the variety of housing needs in the community, including for single persons or couples that may be seeking a more affordable accommodation option, or an alternative option to conventional apartments elsewhere, or detached low density housing in the locality. The scale and appearance of the building is inconsistent with the pattern of surrounding development and does not display a "good fit" to the existing or desired future character. This is due other built form controls that require a high standard of design and amenity considerations including landscaped open space, privacy, spatial separation, parking, building bulk, height and presentation to the streetscape to suit the character of the area and minimise impacts on adjacent land.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Comment:

The proposal is for housing only in a residential area, therefore this objective is not relevant to the application.

To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

Comment:

The proposal does not demonstrate an acceptable response for the front setback area in terms of landscaping, including the side and rear setback areas. Considering the large scale of the building compared to conventional detached dwellings in the R2 zone, the overall design does not demonstrate a sufficient landscape setting that is in harmony with the low density residential environment. This extends to the basement excavation zones that extend into the front and side setbacks that would require significant modification of the natural site levels and create ineffective buffers for screening of building bulk, and low amenity of private open space area along the side of the building. The proposal is inconsistent with this objective.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.99m	10.9%	No
B3 Side Boundary Envelope	45 degrees at 4m (East)	Breach of envelope	18%	No
	45 degrees at	Within envelope	N/A	Yes

	4m (West)			
B5 Side Boundary Setbacks	0.9m (East)	0.0m (Basement)	100%	No
		2.0m to 3.0m (Ground floor - primary wall plane)	N/A	Yes
		3.0m (First floor - primary wall plane)	N/A	Yes
		3.0m (Second floor - primary wall plane)	N/A	Yes
	0.9m (West)	0.0m (Basement)	100%	No
		0.0m to 4.0m (Ground floor - primary wall plane)	100%	No
		3.0m - 4.0m (First floor - primary wall plane)	N/A	Yes
		4.0m (Second floor - primary wall plane)	N/A	Yes
B7 Front Boundary Setbacks	6.5m	0.9m (Basement)	86%	No
		6.5m (Primary wall plane)	N/A	Yes
B9 Rear Boundary Setbacks	6.0m	5.8m (Basement)	3%	No
		6.0m (Primary wall plane)	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting (Area 975.5sqm) 77.1 +21.8+10.3	390sqm 40%	120.2m (12.3%)	69%	No

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	No	No
B9 Rear Boundary Setbacks	Yes	No
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	No	No
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	No
D2 Private Open Space	No	No
D3 Noise	Yes	Yes
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	No	No
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

A.5 Objectives

- *To ensure development responds to the characteristics of the site and the qualities of the surrounding*

neighbourhood .

Comment:

The predominant characteristics and pattern and scale of residential development in the surrounding neighbourhood is a critical element in the assessment of the boarding house proposal. The low density qualities of the surrounding neighbourhood have been raised in numerous public submissions including concerns regarding inconsistency of the boarding house design in terms of its building bulk, inadequate landscaping and high occupancy/intensity of use. While the site is being considered for potential change to R3 Medium density zone, the proposal has not sought to achieve a development that meets the desired characteristics and qualities expected by the controls applying that zone either.

It is considered that the proposal has not responded to the predominant character of the surrounding neighbourhood and does not satisfy this objective.

- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.*

Comment:

The building bulk, size and intensity of use (based on the number and size of rooms) and ratio of landscaping to built form creates an abrupt change compared to neighbouring residential development. While the proposed use of the site is not considered to be inherently in contrast surrounding residential land, the building bulk is visibly exposed along all boundaries of the site. The building bulk is in stark contrast to the low density residential development surrounding site whereby there is a predominance of part one and part two-storey detached housing.

While it is accepted that existing development will gradually transition over time to a higher density, the proposed full 4 storey design within a single massed structure is not in keeping with the existing pattern of development. By comparison to the scale of surrounding residential properties the proposal represents a generally poor planning outcome and sets an undesirable precedent of urban form. Additionally, no effective landscape buffers are available along the side and rear setbacks. Therefore the proposal has not properly addressed the built form controls in a manner that will maximise landscaping and provide a positive contribution to the street or neighbours amenity.

- *To inspire design innovation for residential, commercial and industrial development.*

Comment:

The important controls which go to achieving design innovation are; building bulk (use of articulation and modulation), colours and materials (harmonise with the landscaped setting) and roof form (complements the buildings design and provides an attractive and interesting appearance within the street). In this regard, the proposal is unsatisfactory in terms of the bulk and massing of the ground and first floor levels and the unbroken wall and roof lines. Therefore, the proposal does not exhibit design innovation to an acceptable degree.

An appropriate series of innovative solutions for the site would be to:

- incorporate single storey elements (particularly at the rear and eastern side of the site).
- break the building into connected modules or pavilions.
- incorporate private open space / balcony elements within the central or front portions of the site.
- break up the roof into distinct and separate sections (and respect the continuity of traditional roof forms).

- accommodate carparking underneath the building (without extending close to any boundaries).
 - increase side setbacks and provide pockets of substantial green space in deep recesses (in association with creating module or pavilion-style design / effect).
- *To provide a high level of access to and within development.*

Comment:

The proposal demonstrates adequate access to the front of the development from the street. However the plans show inconsistencies with practical access from the rear of the building via the side access. A high level of safe access is required due to the intensity of residential use, however the plans provide insufficient and inconsistent information to address this requirement.

- *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.*

Comment:

The site is not within an "environmentally sensitive area" under WLEP 2011. Additionally, the land is not identified as having intrinsic scenic and visual qualities in the area and the site is not situated on a prominent hillside or ridgetop. The site does not contain any significant biological or ecological values such as remnant natural bushland or habitat.

- *To achieve environmentally, economically and socially sustainable development for the community of Warringah.*

Comment:

The proposal raises issues in relation to the lack of a suitable landscape setting for the development, and does not provide for well designed communal spaces which protect the amenity of adjacent land. Hence, the proposal is not considered to be an environmentally sustainable development. It is noted that the community have raised a significant level of concern in relation to the social impacts of the development. However, suitable conditions including a OPM will regulate the occupant impacts on the community. There are no issues in relation to economic sustainability.

B1 Wall Heights

Description of non-compliance

The proposal has a wall height of 7.99m which is breach of the wall height control by 0.79m (10.9%).

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:

The building exceeds the wall height control toward the northern end of the building which has a

visual impact on adjoining properties to the north as well as toward the rear along eastern and western side setbacks. In particular, the height of the wall would also be visible from the street when looking down the side boundaries and in particular along the driveway access side. The non-compliance is principally created by the inclusion of a third storey element at the upper level when the current planning controls for the zone are intended to encourage a maximum two-storey built form, as reflected by the existing streetscape.

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

Comment:

The proposal has not been designed to retain any substantial landscape areas that would allow large canopy trees to grow along the front, side and rear setbacks. Therefore, the proposal relies on trees within neighbouring land to compensate for the inadequate retention of deep soil zone available within the site. As such the proposal is inconsistent with this objective.

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

Comment:

The site is not in a location that affords any coastal or district views. Therefore, no further consideration of this objective is required.

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

Comment:

Compliance with the wall height control would reduce overshadowing to adjacent land, reduce visual building bulk and require a built form that has a reduced scale and massing. The proposal is inconsistent with this objective and demonstrates over development of the site which is symptomatic of a design approach that is not minimising impacts of development on adjoining properties.

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

Comment:

This objective favours buildings stepping down a site and using the natural slope to maintain consistent cross boundary levels, minimal excavation, changes in wall planes. The proposal includes significant excavation of the site for the basement level which extends across the full width of the site, and substantially into the front setback area. Excavation of the ground floor area also means that part of the building is below ground level resulting in a number of the boarding rooms at this level having low amenity. Since the building is set on an excavated footprint the finished wall height from RL134.4 to the roof eaves is much higher than 7.2m. Therefore, the proposal has not responded sympathetically the intent of this objective which is to discourage excavation of the natural slope.

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

Comment:

The proposal includes a "mansard" style roof edge with a flat central roof area. The streetscape is dominated by traditional pitched roof forms and the visible roof area therefore may contribute to about 30% of the building form. The proposal is in contrast to this and therefore appears "jarring", unsympathetic and out of character within the low density residential streetscape. The building form is also out of context with the usual residential form of medium density apartments expected, in that the integrated massing of the wall and roof shows a "hardened" appearance. This is at odds by comparison with the softer landscape setting of housing along Naree Road and the broader residential development pattern nearby.

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 proposal breaches the side boundary envelope, by up to 1.3m, along the upper eastern wall plane / roof edge toward the northern end of the building.

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 side elevations are not progressively stepped-in as wall height increases to respond to the side boundary envelope thereby reducing the visual dominance of the building. The building design does not demonstrate adequate recessed elements and stepping-in along the upper storey's to provide articulation and a compatible residential appearance that reduces visual bulk when viewed from adjacent land.

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

Comment:

The proposal does not provide an appropriate design response to ensure reasonable privacy is maintained to adjacent land imposing constraints on adjacent future redevelopment potential due to inadequate spatial separation. The proposed development would significantly reduce levels of residential amenity enjoyed on adjoining and nearby properties. The development does not orientate living rooms to the street, and would locate windows within 9.0m of windows of adjoining dwellings. Non-compliant elements with the side boundary envelope contribute to unnecessary overshadowing of adjacent land that would also impact opportunities to receive direct sunlight with any future redevelopment of adjacent private property for a similar purpose.

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

Comment:

The proposal includes significant excavation and modifies the natural landform with abrupt changes at the boundary lines toward the southern half of the site. This is contrary to the intent of this objective to follow the topography of the land and respond to the natural slope of the land, including the retention of existing site levels to support landscaping and natural drainage around the perimeter of the building.

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

The minimum side setback for the site is 0.9m and the proposal includes basement structures at a 0.0m setback and above ground walls setback 2.0m to 3.0m

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 proposed development will not be surrounded by landscaping to soften and reduce the visual bulk when viewed along the side setbacks since the basement level and driveway is built to side boundaries leaving no opportunity for deep soil landscaping, including canopy screen trees.

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

Comment:

The building height, width and overall scale is commensurate with that of a medium density apartment block, and is an obviously dominating structure by comparison to the adjacent dwelling houses. This imposes constraints on adjacent land and places unreasonable impacts on future re-development opportunities to overcome the lack of spatial separation, inadequate landscaped setbacks and imposing building scale along the side setbacks.

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

Comment:

The side and rear setbacks are not progressively increased as wall height increases. The building design does not demonstrate adequate recessed elements and stepping-in along the

upper storey to provide articulation and a compatible residential appearance that reduces visual bulk when viewed from adjacent land

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

Comment:

Narrow side setbacks and building height contribute to reduce solar access to adjacent land. The inadequate deep soil zones and high levels of occupancy reduce the residential amenity of the building. The numerous balconies along the side setbacks have limited functional purpose due to their enclosed design and therefore further detract from the spatial amenity between neighboring buildings as have limited utility and do not serve to enhance the residential appearance if the building when viewed from the public domain or private property.

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

Comment:

The site is not in a location that affords any coastal or district views therefore not further consideration of this objective is required.

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.

B7 Front Boundary Setbacks

Description of non-compliance

The DCP requires a setback of 6.5m and the proposal has a front setback of 0.9m for the basement structure.

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 excavation of the front setback extends the building structures up to 0.9m from the street boundary. This requires a significant modification to the existing natural ground levels for concrete structures including planter boxes to create an unnatural setback area. The unsympathetic treatment of the front setback reduces the sense of openness to Naree Road and sets an undesirable precedent for the treatment of the front setback area.

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

Comment:

Within part of the front setback an underground common room has been located that is forward of the 6.5m building line. This significantly reduces the opportunity for any substantial tree planting for canopy trees that would assist to maintain the desired landscape visual continuity of natural soil levels and deep soil planting in the front setback area. The landscape treatment of the front setback area is not compatible with the Naree Road streetscape. This streetscape is characterised by single and double storey dwellings situated in garden settings, with minimal structures forward of the front building line. Landscaping within front setback areas is situated at or near natural ground level and the fall in topography is evident in front gardens.

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

Comment:

The proposed development is incompatible with the current R2 Low Density Residential character of Frenchs Forest in the vicinity of the site. In particular the development involves the removal of all existing landscaping from the front setback and the construction of a basement level that extends within 1.0m from the front boundary and adjoins the side boundary. The front setback area is also dominated by structures for the driveway, pedestrian path and a raised planter box within the excavated area. This also sets an undesirable precedent against the HPSP for consistency in landscaping settings and streetscapes to be commensurate with future residential redevelopment in the area.

- *To achieve reasonable view sharing.*

Comment:

The site is not in a location that affords any coastal or district views and therefore no further consideration of this objective is required.

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 proposal has a minor encroachment for the basement element (0.2m). However, the design outcomes for the rear setback above ground level do not meet the secondary control that 50% of the rear setback area is to remain landscaped. Therefore, the proposal is not consistent with maintaining the objectives of this built form control.

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:

The majority of the rear setback is dominated by hard paved areas for the communal open space, the clothes drying area and on-site detention structure (below the clothes drying area). This results in more than 50% of the rear setback not having deep soil areas that are capable of supporting medium to large canopy trees to enhance the landscaped setting of the building when viewed from adjacent private open space and houses.

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

Comment:

The building complies with the rear setback distance of 6.0m and there are no ancillary outbuildings in the rear setback therefore the proposal is consistent with maintaining an open rear setback that does not have secondary buildings that encroach into this area.

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

Comment:

The redevelopment of the site for a boarding house will intensify the use of the rear setback area where communal open space will be available and other site facilities (such as clothes drying) are frequently used. Therefore, the privacy of adjacent land should be protected by ensuring a wide landscaped buffer is provided. Ideally this should be 3m to 4m wide (commensurate with the side setbacks) to buffer any communal areas and enable deep soil screen tree planting that provide effective privacy within the rear setback area and does not solely rely on adjacent private open space. The proposed boarding house does not have a sufficient landscape buffer within the rear setback and the use of the communal area is likely to impact on the amenity and privacy of adjacent land. Therefore, the proposal is inconsistent with this objective.

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

Comment:

The depth of the building extends to the limit of the rear setback area which is not consistent with the existing continuity and pattern of building, rear gardens and landscaping. In addition to this the rear setback is dominated by paved areas that prevent any substantial landscape elements and reduces the overall landscaping within the rear setback to less than 50% of the area. Therefore, the proposal is inconsistent with this objective.

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

Comment:

At ground level privacy can be partly addressed by high boundary fencing however this does not reduce overlooking from the upper storeys of the building or create a spatial separation between adjacent usable open space. The proposal does not provide adequate deep soil space for effective landscape screening to maintain privacy to adjacent dwellings.

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

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 traffic hazards.*

Comment:

The driveway exit is likely to require the relocation of a power pole, drainage pit and possible underground services. The applicant has not provided information from the relevant service infrastructure providers (Ausgrid, RMS, Telstra, Sydney Water) that those infrastructure elements can be suitably relocated / protected to allow for the new driveway entry / exit point. In this regard the proposal has not provided satisfactory information with the development application.

- *To minimise vehicles queuing on public roads.*

Comment:

The driveway access includes a lay-by area so that vehicles exiting and entering at the same time can pass, in order to ensure minimal queuing on Naree Road.

- *To minimise the number of vehicle crossings in a street.*

Comment:

The proposal includes one vehicle crossing. The existing (new) vehicle crossing will be removed and kerb / footpath reinstated.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

The access drive will require adjustment to the design to ensure compliance with gradients and sight distances so that visibility between pedestrians and vehicles existing the site is safe enough to meet Australian Standards. Insufficient information has been provided to demonstrate compliance with this objective.

- *To minimise interference with public transport facilities.*

Comment:

Relevant requirements are considered in terms of the State Transit's 'Bus Infrastructure Guide'

Issue 2 dated July 2011. In particular, Section 3.7 of the Guide provides details on transit considerations. The proposal has suitable access to public transport since there is a bus stop located within 50m of the site. The building will not require any change to the bus stop.

- *To minimise the loss of "on street" kerbside parking.*

Comment:

Due to recent and significant changes to Naree Road by the RMS a transit lane is situated in front of the site. Therefore, visitor parking or additional cars owned by Lodgers within the proposed boarding house, that cannot park in the basement, would be displaced to other local roads near the site, such as Rabbett Street.

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.

C3 Parking Facilities

Description of non-compliance

The basement carpark is not designed appropriately to comply with the built form controls or provide a convenient parking layout for occupants of the building.

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 adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Boarding house	Comparisons must be drawn with developments for a similar purpose*.	0.5 parking spaces per boarding room as per the SEPP ARH with 1 for a Manager +	16 spaces (incl. Mgr car space) + 16 motorbike spaces + 16 pushbike spaces	- 4 car spaces + 8 motorbike spaces + 15 pushbike spaces.

		1 pushbike space + 1 motorbike space per 5 boarding rooms.	
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*In order to make an appropriate genuine comparison the proposal must rely on other "new generation" boarding houses approved or constructed in the Warringah area and not other styles of boarding houses that are configured differently. Comparisons must be "like for like" and within the Warringah LEP/DCP 2011 area.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The basement parking area and driveway access encroaches into the side setbacks (up to a 0.0m setback) and into the 6.5m front setback area. This has a significant impact on building appearance since the existing deep soils zones and visible natural ground levels are not being kept in situ, that would otherwise allow for deep soil tree planting and a buffer between adjacent land. The design and location of the basement parking area therefore contributes on an unacceptable visual impact on the street frontage by preventing deep soil landscaped setbacks for the building, when viewed from the public domain.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The basement parking area encroaches into the 6.5m front setback which prevents any deep soil (tree) landscape planting above the basement. In addition to this the deep excavation has a significant impact on the street frontage appearance since the visible natural ground levels are not being maintained. The design and location of the basement parking area therefore contributes on an unacceptable visual impact on the street frontage when viewed from the public domain.

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.

C4 Stormwater

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 the appropriate management of stormwater.*

Comment:

The applicant has shown intent to drain through private property to Wareham Crescent but Council is not in receipt of any evidence indicating that the downstream property owner is prepared to grant drainage easement for the development. It is the responsibility of the Applicant to provide full details of all relevant services that may conflict with the proposed OSD system(s) and stormwater lines. The exact locations of any crossings or connections are to be shown and appropriate detail has not been provided. This would include engineering longitudinal section through the outlet pipe from the OSD system to the connection design invert levels, finished surface levels, pipes size, design flows, all utility services that may cross the line and a hydraulic grade line. Insufficient details are submitted to demonstrate stormwater disposal to Council's drainage infrastructure in Wareham Crescent complies with Council's requirements.

- *To minimise the quantity of stormwater run-off.*

Comment:

The proposal demonstrates a significant lack of landscaped open space which would minimise stormwater runoff by enabling the natural infiltration of water into existing deep soil landscape zones.

- *To incorporate Water Sensitive Urban Design techniques (WSUD) and On-Site Stormwater Detention (OSD) Technical Specification into all new developments.*

Comment:

Insufficient information has been provided to demonstrate WSUD techniques and compliance with Council OSD Technical specification.

- *To ensure the peak discharge rate of stormwater flow from new development is no greater than the Permitted Site Discharge (PSD).*

Comment:

In order for Council to adequately check the design of the OSD system, when the DRAINS program is used, the input data and summary information including a copy of the model on computer disc must be provided. Sufficient details must be submitted to demonstrate the total discharge (controlled and uncontrolled) off the development site is restricted to the 'state of nature' condition, as per section 4.3 of Council's On-site Stormwater Detention Technical Specification. Council's Development Engineers are not in receipt of this information and therefore cannot ensure the peak discharge rate is acceptable.

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.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposal has a landscaped open space (LOS) area of 120.2 sqm (12.3%), which represents a

deficiency of 69% from the required landscaping area of 390sqm (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 has provided some landscaping within the front setback between the access driveway and the western boundary, which should serve to maintain and enhance the streetscape. However, below part of this area is a basement structure that extend to 0.9m from the front boundary. Therefore, preventing the opportunity for any medium to large screen tree planting in the front setback area.

In addition to the lack of deep soil zones within the front setback the side setbacks have no substantial landscaping zones. This is due to the basement structures and driveway having a 0.0m setback to the side boundaries which results in unsatisfactory natural deep soil zones being retained for screen planting to enhance the buildings amenity and provide a buffer to the adjoining properties.

As such the proposal is inconsistent with this objective and results in a low standard of LOS consideration that prevents medium to large planting distributed around the building that would enhance the appearance of the development appropriate for the locality.

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

Comment:

The proposal does not provide adequate LOS due to the excessive building footprint, including boundary to boundary basement excavation and extensive hard paved areas around the building perimeter. The shortfall in LOS represents a significant variation from the 40% landscaping built form control. The lack of LOS does not enable sufficient area/buffers for substantial indigenous vegetation to complement the landscaped area on surrounding land and provide habitat for wildlife.

- *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 proposal does not provide an adequate width of landscaping within the eastern setback as it is compromised by excavated open space areas, basement structures and the likely need for a side pathway BCA requirement (not shown on the plans). Overall, the minimal landscape screen planting will not provide effective mitigation of the bulk and scale of the development and is inappropriate to meet this objective.

- *To enhance privacy between buildings.*

Comment:

The building has narrow side setbacks with basement elements that extend to the side boundaries. Therefore no appropriate area buffer is retained establish screen tree planting to enhance privacy protection and also screen the building. There should be no structures below this buffer area to be retained around the perimeter of the building.

In addition to this, the proposal includes numerous balconies along the east and west elevations that increase the need for effective LOS screen planting. Overall, due to the size and high occupancy of the building, landscaping will not satisfactorily address privacy loss concerns unless at least 3.0 to 4.0m of deep soil, at natural ground level, where practicable.

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

Comment:

The subject development has limited outdoor open space to meet the needs of the occupants, especially considering the accommodation capacity of the building exceeds 50 persons. Despite the rear terrace area being compliant with the minimum dimensions under the SEPP ARH it is an area where lodgers can congregate within 3.0m of the adjoining property to the north. The placement of the communal private open space/terrace within the rear setback also will diminish the opportunities for effective screen landscaping and places the main outdoor area in a location that will disturb adjacent dwellings north of the site. Therefore, the potential amenity disturbance is high and is not satisfactory for a low density residential area.

- *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, northern wall).

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

Comment:

The proposal includes an on-site detention (OSD) tank in the north-eastern corner of the site (rear setback), which reduces landscape area within the rear setback. In addition, the area above the OSD tank is shown as a clothes drying area that prevents landscape screening in this area of the rear setback.

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.

D2 Private Open Space

Description of non-compliance

Communal private open space is located within the rear 6.0m setback of the site.

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 rear of the site and has the potential to negatively impact the amenity of neighbouring properties. This is because it is not shielded by the building itself, or significantly separated by a wide landscape buffer from adjacent land. It is considered that the private open space area is not well located / adequately buffered to minimise noise intrusion to neighbours, including potential overlooking of an adjacent swimming pool.

- *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 is wholly within the rear setback area. The paved terrace is likely to be used quite frequently and by multiple lodgers. While the 1.5m to 2.0m northern setback is landscaped and open to view from No.21 to No.25 Wareham Crescent. This includes noise from persons socializing within the boarding house rear terrace area being likely to be readily apparent from adjacent properties to north. The building does not provide well located screened/integrated private open space that will protect neighbours from noise and other activity at the rear of the boarding house and no details are provided regarding any replacement fencing by the applicant to protect viewing / noise toward 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 *Hames Sharley* dated, 5-4-2018.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent 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 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 proposal includes the location of ground floor private open space within the side setback areas. The basement area being excavated to the boundary prevents any landscape buffer to assist screen planting along the side setbacks. Therefore, the proposal only relies on high fencing at ground level however insufficient detail is provided regarding the potential change to fencing and adjacent site levels. For the upper floors there are up to 10 balconies facing the neighbours on either side of the building, and while the balconies have screens the design is not a sympathetic response to the existing privacy enjoyed by adjacent dwellings. Therefore, the proposal is inconsistent with this objective.

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

Comment:

The design of the building includes high light windows along the side boundaries for the upper two levels and high fencing at ground floor level. While this intends to achieve visual and acoustic privacy to neighbours it results in a low standard of internal amenity. The balcony spaces for the lodger rooms along the eastern and western elevation are also enclosed by high screens that afford no outlook and would remain largely in shadow during the day. It is therefore considered that the resultant design solutions are not innovative and do not provide a positive contribution to the urban environment. The small and narrow window fenestration adds to the building bulk and contributed to a "hardened" appearance of the building when viewed from surrounding land and the street, setting and undesirable precedent for future development.

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

Comment:

The proposal has only the driveway (basement) and front entry area that are the principal access to the building. Therefore, privacy access is restricted for the security of occupants and visitors.

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

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:

The design of the building includes extensive three storey wall planes along the eastern, western and northern elevations. This is symptomatic of the high number of boarding rooms within the boarding house compared to the available site area and site width. The high number of rooms for the site area translates into excessive visual building bulk that is incompatible and inconsistent with the surrounding predominant pattern and scale of housing. The building bulk is unsatisfactory, despite the use of small balcony recesses and approval of this application would create an undesirable precedent for similar design responses for future development, including apartment buildings since the site is within the Northern Beaches Hospital Precinct.

- *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 insufficient building articulation and modulation along the side walls and a distinct absence of any single storey elements. The resultant built form does not appropriately respond to the local character of the existing residential area. This issue also extends to appropriate design considerations given the potential transition in the long term to R3 Medium Density within the Northern Beaches Hospital Precinct. Therefore, landscaping (up to half the site area), wide building setbacks of 4.5m to 6.5m, building articulation, use of window fenestration, sympathetic use of materials and colours is required to reduce the building bulk and minimise the visual impact of the development when viewed from adjoining properties and the street.

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.

D11 Roofs

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:

The proposed 'mansard' style roof design out of character with the pattern and style of existing

roof that dominate residential development in the surrounding urban environment. The roof form contributes to the overall bulkiness of the buildings appearance and therefore does not provide an innovative solution to improve the urban streetscape. It is considered that massing and scale of the building has not been adequately reduced by using variation in roof pitch and design and therefore sets and undesirable visual precedent for future development.

- *Roofs are to be designed to complement the local skyline.*

Comment:

The proposed roof design is not consistent with the dominant pattern and style of residential roofs surrounding the site. This is inconsistent with maintaining some elements of continuity in the urban form and local character by ensuring some similarity between roofs. The roof style selected is not consistent with this objective.

- *Roofs are to be designed to conceal plant and equipment.*

Comment:

The proposal does not show any plant or equipment on the roof for the development application diagrams, with the exception of a low lift overrun, setback from the edge of the building.

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.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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 development application assessment revealed that the proposal is incompatible and inconsistent with the surrounding low density character that is predominantly dwelling houses in a landscaped setting. The proposal does not respond well to the local planning controls in the WDCP 2011 in terms of planning objectives relating to wall height, building envelope, setbacks, building bulk, inadequate LOS and privacy treatment. Additional concerns are also raised with regard to engineering matters for stormwater disposal and BCA compliance. More site specific assessment issues include concerns relating to the location and design of the private open space terrace, communal areas, inadequate details for emergency egress and parking arrangements. Based on these shortcomings, it is not in the public interest to support a development that does not satisfactorily address and satisfy the applicable planning controls.

The application was notified and advertised. More than 10 public submissions of objection to the proposal were received which demonstrates that there is a significant amount of public interest in the proposal for the matter to be referred to the NBLPP. The principal planning related issue raised in the submissions is whether the development demonstrates a "good fit" within the existing local character due to the scale of the proposal. Additional concerns were also raised in relation to the suitability of boarding houses in the area, the impact of traffic and parking and the impact of such a high occupancy use on local amenity setting an undesirable precedent for future development.

Based on the preliminary assessment, discussions were held with the applicant to encourage withdrawal of the DA to allow an opportunity to redesign the building. The applicant decided to maintain the current development application. As such the proposal is currently subject to a NSW LEC Appeal ('deemed refusal'). The LEC Proceedings No.2018/332566 so far have highlighted particular concerns in relation to built form, streetscape and residential amenity, including building bulk, amenity issues, site landscaping, setbacks, access and privacy. In this regard, it is being sought that the building scale and footprint be reduced to address the principal contentions.

Amended plans are not available for consideration by the NBLPP since the applicant has selected to concentrate on the LEC Appeal process and the 'without prejudice' discretion that is available under appeal rights. However, any redevelopment considerations for the proposal involves a significant redesign to break up the building platform, incorporate recesses/indents in the side walls of the building, incorporate larger areas of deep soil landscaping within setbacks areas, break up the building bulk, reduce overlooking and have communal areas better designed. The proposal is also lacking particular information to comply with Council's engineering requirements.

This assessment report has taken into consideration all public submissions, Statement of Environmental Effects, plans and other documentation supporting the application, including details of the NBSP. On balance, it is considered that the proposed development does not respond appropriately to the development controls and will result in an unfavourable development outcome pursuant to SEPP ARH, and the Warringah DCP 2011.

Accordingly, the application is recommended for refusal.

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 DA2018/0849 for the Demolition works and construction of a Boarding House development on land at Lot 16 DP 23317,10 Naree Road, FRENCHS FOREST, 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* (“SEPP ARH 2009”). In particular, the proposal does not provide a satisfactory urban design response to the character of the local area, carparking, landscaping, solar access, amenity and built form requirements.
2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
3. 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 the objectives for the *Zone R2 Low Density Residential* of the *Warringah Local Environmental Plan 2011*. In particular, the overall design does not demonstrate a sufficient landscape setting that is in harmony with the low density residential environment, including the effective screening of building bulk, wide and well landscaped setbacks or a high standard of amenity for occupants and adjoining land.
4. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the Objectives of the *Warringah Development Control Plan 2011*. In particular in relation to design considerations to relating to streetscape, setbacks, landscaping, building bulk and form to maintain and enhance residential amenity.
5. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions and objectives of *Clause B1 Wall Heights* of the *Warringah Development Control Plan 2011*.
6. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions and objectives of *Clause B3 Side Boundary Envelope* of the *Warringah Development Control Plan 2011*.
7. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause B7 Front Boundary Setbacks* of the *Warringah Development Control Plan*.
8. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause B9 Rear Boundary Setbacks* of the *Warringah Development Control Plan 2011*.
9. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause C2 Traffic, Access and Safety* of the *Warringah Development Control Plan 2011*. In particular sufficient information detailing safe egress and impacts on existing service infrastructure located at driveway interface with Naree Road.
10. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause C3 Parking Facilities* of the

Warringah Development Control Plan 2011.

11. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause C4 Stormwater* of the *Warringah Development Control Plan 2011*. In particular insufficient details are submitted to demonstrate stormwater disposal in compliance with Council's drainage policy and Council infrastructure.
12. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Part D1 Landscaped Open Space and Bushland Setting* of the *Warringah Development Control Plan 2011*.
13. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause D2 Private Open Space* of the *Warringah Development Control Plan 2011*.
14. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the provisions of *Clause D8 Privacy* of the *Warringah Development Control Plan 2011*.
15. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause D9 Building Bulk* of the *Warringah Development Control Plan 2011*.
16. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* the proposed development is inconsistent with the objectives of *Clause D11 Roofs* of the *Warringah Development Control Plan 2011*.
17. For the above reasons and pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest due to inconsistencies with applicable planning controls intended to achieved desirable built form outcomes expected by community in managing local development.