

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0205
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<b>Responsible Officer:</b>	Renee Ezzy
<b>Land to be developed (Address):</b>	Lot 9 DP 6984, 18 Alexander Street COLLAROY NSW 2097
<b>Proposed Development:</b>	Part Demolition works and construction of Boarding House with associated carparking and Landscaping
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	Yes
<b>Owner:</b>	Simone Victoria Waights
<b>Applicant:</b>	Brendan Andrew Waights

<b>Application Lodged:</b>	03/03/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New multi unit
<b>Notified:</b>	14/03/2020 to 04/04/2020
<b>Advertised:</b>	14/03/2020
<b>Submissions Received:</b>	21
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 705,000.00
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### EXECUTIVE SUMMARY

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

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

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

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

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

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

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

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

## **PROPOSED DEVELOPMENT IN DETAIL**

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

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

The boarding house comprises the following:

### **Basement/Undercroft Level (RL 10.720)**

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

### **Level 1 (RL 13.130)**

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

- Common Open Space terrace (45.9m<sup>2</sup>)

## **Level 2 (RL 16.060)**

- Rooms 6, 7, 8, 9 and 10

## **ASSESSMENT INTRODUCTION**

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

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

## **SUMMARY OF ASSESSMENT ISSUES**

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

## **SITE DESCRIPTION**

<b>Property Description:</b>	Lot 9 DP 6984 , 18 Alexander Street COLLAROY NSW 2097
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## Detailed Site Description:

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

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

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

The site is regular in shape with a frontage of 12.20m accessing onto Alexander Street and a depth of 46.895m. The site has a surveyed area of 574.8m<sup>2</sup>. The site has a fall from the rear southern boundary to the front of the site of approximately 5.52m (11.8%).

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

Map:



## SITE HISTORY

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

**Development Application No. DA2015/081**

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

**Development Application No. DA2019/0306**

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

**Review of Determination REV2020/0001**

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

**Development Application No. DA2020/0205**

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

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

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

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

This application is the subject of this assessment.

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

**Development Application No. DA2020/0261**

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

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

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



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

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

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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

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

The following issues were raised in the submissions:

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



The matters raised within the submissions are addressed as follows:

- **Amenity Impact - Noise and Privacy**

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

Comment:

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

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

- **Traffic and Parking**

*Proposal has inadequate parking.*

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

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

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

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

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

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

Comment:

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

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

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

- **Location and Character**

Comment:

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

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

- **Safety Concerns**

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

Comment:

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

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

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

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

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

Comment:

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

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

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

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

Comment:

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

- **Permissibility and Precedent**

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

Comment:

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

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

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

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

Comment:

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

- **Financial Impact on surrounding Property Prices**

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

Comment:

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

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

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

Comment:

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

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

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

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

- **Accessibility of Development.**

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

Comment:

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

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

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

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

Comment:

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



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

- **Stormwater and Overland Flow**

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

Comment:

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

## REFERRALS

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

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

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

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

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



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

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

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

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

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



Internal Referral Body	Comments
	<p>1. Development is to maintain a minimum setback to rear boundaries.</p> <p>2. The rear setback area is to be landscaped and free of any above or below ground structures</p> <p><b>Exceptions</b></p> <p><b>Corner Allotments on Land Zoned R2 or R3</b> On corner allotments for land zoned R2 Low Density Residential or R3 Medium Density Residential, where the minimum rear building setback is 6 metres, the rear building setback does not apply.</p> <p>It is assumed the rear boundary setback is compliant</p> <p><b>D1 Landscaped open space and bushland setting</b></p> <p><b>Requirements</b></p> <p>1. The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and <i>Bushland Setting</i>. To measure the area of landscaped open space:</p> <ul style="list-style-type: none"> <li>a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;</li> <li>b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;</li> <li>c) Landscaped open space must be at ground level (finished); and</li> <li>d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.</li> </ul> <p>Required percentage of landscaped area has not been achieved (40%). Deck structures and impervious finishes are not to be calculated as Landscape open space. Refer Landscape officer comments.</p>
Traffic Engineer	<b>NOT SUPPORTED</b>

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

Internal Referral Body	Comments
	<p>The temporary holding bay area shown on the plans cannot be both a bin bay <u>and</u> a landscape area.</p> <p>Should the applicant choose to modify this area to comply with the bin storage bay requirements the proposal must also meet the access criteria - that being: <i>access to the bin holding bay must via a separate path to the vehicular driveway.</i></p> <p>Council will not accept any proposal for the bins to be placed at the kerbside for collection. Council will provide a 'wheel out/ wheel in' service to the property.</p> <p>10 rooms + managers residence</p> <p>Proposal will be required to store the following bins:</p> <ul style="list-style-type: none"> <li>• 4 x 240 litre garbage bins</li> <li>• 5 x 240 litre recycle bins</li> <li>• 1 x 240 litre vegetation bin</li> </ul> <p>The footprint of a 240 litre bin is 600mm wide x 750mm deep.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p><b>SUPPORTED</b></p> <p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p><b>SUPPORTED</b></p> <p>The application was referred to Roads and Maritime Services (RMS) Transport for NSW (TfNSW) who raised no objections to the proposal subject to the following comments:</p> <p>TfNSW has reviewed the submitted application and raises no objection to the application and provides the following advisory comments to Council for consideration in its determination of the development application:</p> <ol style="list-style-type: none"> <li><i>1. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth).</i></li> <li><i>2. Council are to be satisfied that the layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) are in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2-2018 for heavy vehicle usage.</i></li> </ol> <p><i>Parking Restrictions may be required to maintain the required sight distances at the driveway.</i></p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

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

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

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

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

### **SEPP 55 - Remediation of Land**

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

### **SEPP (Affordable Rental Housing) 2009**

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

### **Division 3: Boarding houses**

#### **Clause 25: Definition**

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

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

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

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

#### **Clause 26: Land to which this Division applies**

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

is equivalent to any of those zones:

<p>(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.</p>	<p><b>Consistent</b>  The site is located within the R2 Low Density Residential Zone and, as such, the proposed use is permissible with consent under WLEP 2011.</p>
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#### **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
<p>(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.</p> <p><b>Note: Accessible area</b> means land that is within:</p> <p>(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.</p>	<p><b>Consistent</b>  The site is located within the R2 Low Density Residential zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	<p>Not applicable.  The site is located within the Sydney region.</p>

#### **Clause 28: Development may be carried out with consent**

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



### **Clause 29: Standards that cannot be used to refuse consent**

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

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

	<p>(i) one area of at least 20m<sup>2</sup> 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 8.0m<sup>2</sup> with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	for the boarding house manager.	
<b>(e) parking</b>	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is</p>	<p>The proposed development is not by or on behalf of a social housing provider and is therefore required to provide 0.5 parking spaces for each boarding room and 1.0 space for the boarding house manager.</p> <p>The development for 10 rooms plus a managers room requires six (6) spaces.</p> <p>Six (6) parking spaces are provided.</p>	<b>Compliant</b>

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

### **Clause 30: Standards for boarding houses**

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

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

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

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

Comment:

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

**Clause 30A: Character of the local area**

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

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

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

Comment:

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

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

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

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

Comment:

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

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



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

Comment:

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

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

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

Comment:

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

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

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

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

Comment:

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

**Constraints on the Development Potential of Surrounding Sites**

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

**Privacy**

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

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

### **Overshadowing**

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

### **Noise**

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

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

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

### **Conclusion to Character Assessment**

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

This matter warrants the refusal of the Development Application.

### **Conclusion**

The proposed development is not supported.

### **SEPP (Building Sustainability Index: BASIX) 2004**

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

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

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

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

## SEPP (Infrastructure) 2007

### Ausgrid

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

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

### Comment:

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

## Warringah Local Environmental Plan 2011

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

### Principal Development Standards

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

### Compliance Assessment

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

## Detailed Assessment

### **Zone R2 Low Density Residential**

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

#### **6.4 Development on sloping land**

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

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

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

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

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

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

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

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

### **Warringah Development Control Plan**

#### Built Form Controls

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

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

#### Compliance Assessment

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

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

### Detailed Assessment

#### **B1 Wall Heights**

##### Description of non-compliance

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

##### Merit consideration:

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

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

##### Comment:

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

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

##### Comment:

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

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

##### Comment:

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

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

##### Comment:

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



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

Comment:

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

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

Comment:

No objection is raised to the proposed roof pitches.

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

### **B3 Side Boundary Envelope**

#### **Description of Non-compliance**

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

#### **Merit Consideration**

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

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

## **B5 Side Boundary Setbacks**

### **Description of Non-compliance**

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

### **Merit Consideration**

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

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

Comment:

The siting of this development provides little to no opportunity for the inclusion of deep soil landscaping within the side setbacks of the site. The basement/undercroft area extend to up to 0.25m from the western boundary and 0.9m to the eastern boundary. The development also includes a nil setback to the elevated access pathway which is the main pedestrian access into the building and to the rear of the site. There is no deep soil planting to the western side of the building footprint and there is only a small area measuring 16m<sup>2</sup> on the eastern side toward the front of the site which is intended to support the retention of Tree 1 which is 10m in height.

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

Comment:

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

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

Comment:

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

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

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

Comment:

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

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

Comment:

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

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

## **B9 Rear Boundary Setbacks**

### **Description of Non-compliance**

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

### **Merit Consideration**

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

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

Comment:

Due to the retention of the existing swimming pool, the rear setback area has only a small section of land within the south-western corner measuring 18m<sup>2</sup> which would be available for deep soil landscaping. While this area will provide some relief to the western neighbour, it is not sufficient to provide adequate deep soil area across the rear of the site.

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

Comment:

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

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

## **C2 Traffic, Access and Safety**

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

## **C4 Stormwater**

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

## **D1 Landscaped Open Space and Bushland Setting**

### Description of non-compliance

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

### Merit consideration

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

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

Comment:

The plans indicate an area measuring approximately 44m<sup>2</sup> of landscaped open space within the front setback of the property. Unfortunately, this landscaping cannot be relied on as the development will require a passing bay to be accommodated within the first 6.5m of the site in order to satisfy the traffic and parking requirements.

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

Comment:

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

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

Comment:

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

- *To enhance privacy between buildings.*

Comment:

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

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

Comment:

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

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

Comment:

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

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

Comment:

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

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

### D3 Noise

#### Merit consideration

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

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

#### Comment:

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

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

#### Comment:

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

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

### D8 Privacy

#### Merit consideration

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

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

#### Comment:

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

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



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

Comment:

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

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

Comment:

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

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

## **D9 Building Bulk**

### Merit consideration

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

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

Comment:

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

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

Comment:

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

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

## **D14 Site Facilities**

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

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

## **D20 Safety and Security**

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

*e) Potential conflict between pedestrians and vehicles is avoided.*

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

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **CONCLUSION**

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

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

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

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

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

The application has been assessed against the provisions of:

- Environmental Planning and Assessment Act 1979;

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

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

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

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

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

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

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

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

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

## RECOMMENDATION

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

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