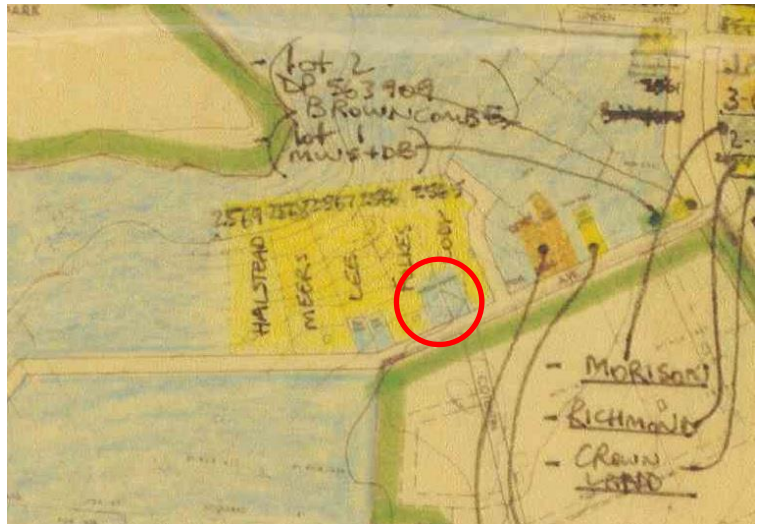


DEVELOPMENT APPLICATION ASSESSMENT REPORT

Development Application Number:	DA2018/0401
Planner:	Adam Mitchell
Property Address:	14 Wyatt Avenue, Belrose
Proposal Description:	Lot 2597 DP 752038
Recommendation:	APPROVAL
Clause 20 Variation:	Yes
Proposal in Detail:	Construction of a Boarding House with 27 rooms including a manager's residence
History and Background:	There are two important and fundamental pieces of background information that are required to be considered in conjunction with this Assessment Report.

The first pertains to the historical subdivision pattern of the land on 8 March 1974 which is referenced in the Housing Density standards of WLEP 2000.

A copy of this subdivision pattern is shown on Figure 1 below from Council records:



The red circle (added) shows that Nos. 14 and 16 Wyatt Avenue were in the same ownership at 8 March 1974. This background history becomes relevant later in the report.

The second piece of background information that should be noted in the reading of this Assessment Report is a prelodgement meeting that was held between the applicant

and Council on 30 November 2017 to discuss the proposal for the construction of a boarding house (refer PLM2017/0139).

It is not necessary for this purpose of this Assessment Report to cite the lengthy discussions within the report accompanying PLM2017/0139, but it is worth summarising several facts of the report:

- The proposal was for a part 2 / part 3 storey boarding house with 33 rooms, 9 car parking spaces and 7 motorcycle spaces. The proposal accommodated 1 common room.
- It was concurred that the State Environmental Planning Policy (Affordable Rental Housing) 2009 does not apply to the development, but, *notwithstanding the applicability of the SEPP ARH to this particular development, it is considered that the standards contained with Cl.40 of the SEPP ARH should be considered in the design of the development.*
- It was concurred that the development for the purpose of a boarding house is a Category Two development by virtue of being an innominate use, and is therefore permitted with consent in the locality.
- It was concurred with that, if any form of development is to occur on this site, the specified location is the most suitable with regard to minimising impacts on trees and the landform.
- Insufficient detail was provided regarding the materiality and proposed landscaping to make a judgement of whether the development will be enhancing and complementary to the natural landscape.
- The onus was placed on the applicant to provide legal advice regarding whether or not the development can comply with the requisite housing density standard.
- The development proposed side boundary setbacks as little as 3m. This element was not supported, and it was suggested that a minimum setback of 6m be required given the width of the site – subject to the building having sufficient articulation and it being demonstrated that the variation will have no unreasonable impact.
- A minimum of 50% landscaping is required, and a landscape plan is to accompany the application.
- The report concluded that, where possible, the applicant should attempt to undertake preliminary

consultation with neighbours prior to lodgement given the controversial nature of boarding house developments. This is not a legislative or statutory requirement – only a recommendation.

Upon lodgement of the application a preliminary review raised issues that were provided to the applicant by letter dated 10 August 2018. The applicant provided additional information and revised plans on 21 August 2018 addressing Council's concerns.

Site Description

The subject site is a single allotment located on the north-western side of Wyatt Avenue, Belrose.

The site is rectangular in shape and has a width of 28.595 metres and a depth of 80.42 metres, equating to an overall surveyed area of 2,298 square metres.

At present the site accommodates 64 trees of varying species and heights. The majority of the trees (55 trees) are located parallel to the eastern property boundary, with several trees interspersed around the allotment. A 3m+ hedge exists parallel to the street frontage. The trees parallel to the eastern boundary are scattered amongst boulders and the like, identified as a 'watercourse' in the provided survey.

The site accommodates a driveway/"track" that extends for the length of the site and connects to the rear portion of No. 16 Wyatt Avenue to the north.

Topographically the site declines by approximately 7 – 10 metres from south to north (front to rear) via a gradual slope, and no exceptional topographical features can be found on the site.

The site is bound by No. 16 Wyatt Avenue to the west and north. No. 16 Wyatt Avenue accommodates a multi-storey detached dwelling house and an in-ground swimming pool. The portion of No. 16 Wyatt Avenue that the "track" on the subject site leads to accommodates a tack shed, horse facilities and an informal helicopter landing area. No. 16 Wyatt Avenue extends a further 115 metres (approx.) to the north-west before adjoining bushland.

East of the site is 12 Wyatt Avenue which is identical in shape to the subject allotment, and is similarly vacant of structures.

South of the site and across Wyatt Avenue is six detached dwelling houses on allotments far smaller than those on the northern side of Wyatt Avenue.

Notification Required:	Yes	21 Days
Submissions Received:	Yes	Number of Submissions: 98
Cost of Works:	\$4,895,000	
Section 94A Applicable:	Yes	TOTAL: \$48,950.00

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of	\$	\$4,895,000
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$46,502.50
S94A Planning and Administration	0.05%	\$2,447.50
Total	1%	\$48,950.00

SECTION 1 – CODE ASSESSMENT REPORT

ENVIRONMENTAL PLANNING INSTRUMENTS

Warringah Local Environmental Plan 2000

Locality: C8 Belrose North

**Development
Definition:**

Boarding House:

(a) means any premises that:

(i) are wholly or partly let as a lodging for the purposes of providing the occupants with a principal place of residence, and

(ii) are used and occupied by at least 4 long term unrelated residents, and

(iii) include a communal living space used for eating and recreation, and

(iv) are not licensed to sell liquor, and

(b) does not include premises that have been subdivided or in which there is separate ownership of parts of the premises.

**Category of
Development:**

Category 2

Desired Future Character Statement (numbering added):

- (1) The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.*
- (2) The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*
- (3) Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.*
- (4) A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.*
- (5) Development in the locality will not create siltation or pollution of Middle Harbour.*

Is the development consistent with the Locality's Desired Future Character Statement? Yes

Category 2 Assessment against the Desired Future Character Statement

Requirement 1: *The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.*

Comment: In consideration of whether the development will 'change' the character of the C8 Belrose North locality, it is prudent to first establish what this existing character is.

In the circumstance of this particular application, character is established via two separate assessments: land use and visual appearance.

Firstly, it is warranted to undertake a detailed analysis of the pattern of land use in the C8 locality to establish if the use sought is a use that already exists within the locality, and then to establish if the use is compatible with other land uses.

In the assessment of this application, properties within the C8 locality have been reviewed, and it can be surmised that the pattern of land use exists as follows:

- 13 x dwelling houses (including 1 dual occupancy)
- 1 x 31 room boarding house
- 1 x riding school
- 1 x Optus satellite communication facility
- 1 x sandstone quarry
- 3 x plant nurseries
- 1 x plant nursery / landscape wholesaler / restaurant
- 1 x electricity substation
- 5 x schools (over various parcels of land, both developed and undeveloped)
- 1 x child care centre (plus one approved, but unbuilt childcare centre)

From this review, it is evident that the C8 Belrose North locality has an eclectic array of land uses. It should additionally be noted that more than 50% of the land within the C8 locality is presently undeveloped bushland owned by the Metropolitan Local Aboriginal Land Council.

From a review of the above tally, it can be concluded that residential land use exists as the *prevailing* typology of land use, but this land use is arguably not the *dominant* land use of the C8 locality, given the actual physical scale of the residential development commensurate to other land uses (i.e. schools).

Accordingly, it can be concluded that the proposed use of the land for the purpose of a boarding house is consistent with the prevailing residential land use, and is not dichotomous to other developments within the locality. It can also be concluded that by virtue of this compatibility, the development will be able to co-exist in harmony with the rest of the C8 locality, and will thereby 'unchange' the character of the area.

Secondly, an assessment of the actual physical development itself (it's visual appearance) commensurate to other buildings is required. It is prudent to note that the DFC control requires character compatibility over the whole of the locality itself, and not on a street-by-street basis.

Whilst the latter half of this report goes into some detail regarding the physical attributes of the proposed building and how it compares with its surrounds, it can be

evidently surmised from a visual inspection of other buildings in the locality that the proposal is of a physical bulk and scale that is consistent with the established character of buildings in the locality.

Therefore, it can be concluded that the character of the building proposed (regardless of its use) is of a bulk, scale and architectural typology that will not 'change' the character of the area.

Accordingly, it is found that the development as proposed will not change the present character of the Belrose North Locality.

Requirement 2: *The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

Comment: The landscape of the development site is generally characterised by a vast expanse of manicured lawn that falls from the road to the rear boundary of the site. 64 trees are present on the land, with the vast majority existing parallel to the eastern boundary. Several other trees exist along the front and rear boundaries, and few trees are free-standing within the lawned area.

From a review of the earliest available aerial imagery of the site (from 1943), it is apparent that the properties on the northern side of Wyatt Avenue had little canopy coverage and appear to generally accommodate ground-cover species and shrubbery.

It can therefore be assumed that the pattern of trees planted directly along the property boundary were introduced upon the release of the subdivision pattern of the area. Notwithstanding this history, for the purpose of this assessment all trees and topography will be considered as a part of the 'natural' landscape.

The development application subject of this Assessment Report seeks to remove 2/3 of the trees on the site, and seeks consent for substantial excavation works to accommodate part 1 /part 2 levels of the building.

It is evident from the tree removal sought and the magnitude of excavation that the natural landform will be greatly modified comparative to its existing barren-state, and it is also apparent that modification to the landform would occur if a different type of development were to be proposed upon the site (i.e. a single dwelling house). In this regard, impact to the natural environment is inevitable if the site is to be granted the ability to accommodate any form of development (of which the Environmental Planning and Assessment Act 1979 enables).

Therefore, the consideration must be formed on the basis of *enhancement*.

The development application is accompanied by a comprehensive landscape plan by Paul Scrivener, Landscape Architect. The planting schedule details that, inter alia shrubbery and ground cover, the development will contribute an additional 54 canopy trees to the site. By sheer quantum, this quantity of plantings will significantly contribute to the site being able to *blend* with the bushland to the north. This replacement of tree stock will also provide growth opportunities for the new trees to establish, as some of the existing older trees reach the end of their useful life.

On this basis, the impact on the vegetation on the site is found to be inevitable and suitably mitigated by replacement stock.

With regard to the impact on natural landform consequent of the proposed excavation, reference is made to recent Caselaw, *Boston Blyth Fleming v Hornsby Shire Council [2018] NSWLCE 1270*¹, which has circumstantial similarities to the subject application.

At 26 Commissioner Walsh notes (extract, names removed):

*I note Mr ****'s point that considerable excavation is required and that the development involves substantial modification to the landform. For me, this is an appropriate response to balance the achievement of local area compatibility while delivering a substantial project which, as he agrees, is in need.*

... This principle is concerned with preserving topography which assists in reducing the visual dominance of a building. In my view, the circumstances here are different. The proposed excavation is concerned with reducing the visual dominance of a building.

With acknowledgement of the above citing, the purpose of the excavation sought as a part of this subject application is to accommodate basement carparking and to reduce the visual dominance of a building as it progressively recesses in height as the topography slopes away.

Therefore, it is considered that if the site is to accommodate a development of this scale, the most suitable design response is to manipulate the topography of the land where necessary to reduce perceivable bulk and scale.

Accordingly, the development as proposed is found to enhance the landscape environment.

Requirement 3: Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.

Comment:

The development is required to conform as a low intensity, low impact use as described in the Land & Environment Court of NSW judgement *Vigor Master Pty v Warringah Shire Council [2008] NSWLEC 1128* as follows:

*“**Intensity** - is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore “low intensity” would constitute a development which has a low level of activities associated with it”.*

*“**Impact** - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore ‘low impact’ would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality”.*

An assessment of the application in accordance with the above citing is required to ascertain whether the development sought can reasonably conform as a low intensity, low impact use.

¹ This Caselaw pertains to the construction of a large seniors housing development on rural land.

Low Intensity Assessment

The development is for the construction of a boarding house which provides for additional residential accommodation in the locality. The use of the land for residential purposes has already been established as the prevailing land use within the C8 locality, and the form of residential accommodation as a boarding house is an innominate Category Two development. Therefore, the intensity of the land use conforms with the prevailing pattern of development in the locality, and the level of activities associated with it will be relatively limited (i.e. eating, sleeping, vehicle movements etc.) comparative to other forms of permissible land uses.

Note: the assessment of 'low intensity' is not required under the DFC to consider the density of the development, and this is addressed in the latter half of this report.

Low Impact Assessment

The above Court citing lists a range of potential amenity impacts that could be used in the consideration of whether a development is 'low impact' and these include (but are not limited to) visual, noise, traffic, vegetation, streetscape, privacy, solar access etc. As such, it is needed to establish whether the development will have an impact, and then compare this impact with the likely impacts of other land uses in the C8 locality to ensure that the development will be unlikely to significantly change the amenity of the locality as a whole.

Accordingly, an assessment on each of the potential impacts consequent of the development follows:

1. Visual / Streetscape

The assessment of visual and streetscape impact pertains to how the building will present to the street.

The building complies with the requisite front boundary setback control and height of building control when viewed from the street. This setback area is proposed to be densely landscaped with more plantings than are currently in place on the site.

Therefore, by virtue of compliance with the relevant numerical controls, the development is found to be of an acceptable visual impact.

Other forms of development within the locality are found to be of a greater visual impact by virtue of a lesser front setback, a front setback accommodated by car parking, a wider façade addressing the street, and a lesser landscaped outcome.

Accordingly, commensurate to other existing developments in the locality, the development sought is unlikely to change the amenity of the locality.

2. Noise

The assessment of noise pertains to the likely acoustic impact of the development upon surrounding developments.

The development is for residential accommodation and occupants of the boarding house will, if approved, be subject to a comprehensive Plan of Management to manage noise.

The density of the development will inevitably result in the building accommodating persons of different professions who work at different hours throughout the day and night. This can therefore lead to the assumption that noise will be adequately managed on the site for both the amenity of occupants of the development, and for neighbouring properties.

Standard detached dwelling houses within the vicinity are not subject to any Plan of Management or noise policies, and therefore there is nothing to restrict or limit the noise that they could cause. For the purpose of this report it need not be required to list the obvious noise associated with schools, child care centres or places of retail, but it can be surmised that they would generate a higher level of noise than a boarding house.

Accordingly, the level of noise associated with the boarding house is found to be of a low impact and will not change the amenity of the locality.

3. Traffic

The assessment of the impact of traffic could pertain to many things, but for the purpose of this application the most suitable assessment is derived from one of the primary issues raised in submissions received (detailed later in this report) which is traffic congestion on the local road network, particularly during peak school hours and weekend sport hours.

Albeit the SEPP ARH does not apply to this development, there is a general expectation that occupants of boarding house developments will heavily rely on and utilise public transport, such as the adjacent bus stop.

As detailed earlier in this report, there is a realistic expectation that occupants of the boarding house will work in various professions that have different operating hours. From this, it can be considered that occupants will be coming and going from the development at all hours of the day and night, rather than all leaving at the same time. Accordingly, the vehicle trips associated with the development are unlikely to detrimentally impact the local road network.

This consideration is supported by a traffic and parking assessment submitted to buttress the application, and by an independent review done by Council's Traffic Engineers.

The level of vehicle movements associated with the site is evidently lesser than that of other land uses within the C8 locality (schools and retail). Much of the objection received for this boarding house application pertains to traffic congestion that is supposedly caused by the John Colet School and the adjacent Wyatt Reserve.

Therefore, the development for the purpose of a boarding house is found to be of a low traffic impact.

4. Vegetation

The assessment on the impact the development will have upon the vegetation on the site has been addressed earlier in this report and need not be reproduced.

The removal of vegetation proposed and the replacement stock is sufficient to warrant the works to be of a low impact.

5. Privacy

The assessment of the impact on privacy pertains to the opportunities for overlooking that are caused by the development upon adjoining properties.

In this regard, the two properties that are likely to be most affected by virtue of overlooking are No. 12 Wyatt Avenue to the north-east, and No. 16 Wyatt Avenue to the south-west.

No. 12 is presently vacant of structures and is identical in dimension to the subject site. No. 16 Wyatt is accommodated by an established two-storey detached dwelling with a swimming pool in the rear yard. At present there is no boundary fence between the subject site and No. 12. Accordingly, due consideration is to be given to the level of overlooking the development causes to the current dwelling and pool at No. 16, and how the level of overlooking could impinge upon the opportunities to design a dwelling at No. 12.

First, it is prudent to establish the spatial separation between buildings. The subject development has setbacks which vary from around 6.5m to 10.7m from a side boundary. The dwelling at No. 16 is setback approximately 2.4m from the shared boundary, and therefore a spatial separation of nearly 10m exists between these properties.

Secondly, it is to be established what level of overlooking will occur from the development, and this can reasonably be done by review of the sightlines obtainable from windows and communal open spaces.

The building is designed with angled windows and large blade walls that act to restrict opportunities for direct overlooking into adjoining properties whilst still allowing for the penetration of sunlight into the building. Other windows of the development (i.e. in the front pavilion) facing parallel to the side boundary and rely on the obliqueness of viewing angles, spatial separation and arbitrary treatments (discussed below) to provide an adequate provision of privacy.

For the purpose of this impact assessment it is necessary to detail the overlooking that is caused by the building. In this regard, some windows of the building do overlook adjoining properties, however this would be the same circumstance as any development on the site, regardless of the use of the building. The design of the proposal has ensured no unreasonable overlooking and combined with the physical separation is satisfactory to ensure satisfactory privacy levels are maintained.

Thirdly, consideration should be given to 'arbitrary' measures to enhance privacy (that is, additional measures that cannot be relied upon in perpetuity). The measures additional to the permanent built form privacy mechanisms include a comprehensive landscaping plan, and the opportunity for the erection of a 1.8m side boundary fence. These measures cannot be considered as a permanent solution (such is the nature of vegetation and fences), but will offer a significant enhancement to the provision of privacy

enjoyed by the development.

The level of overlooking caused by the development is found to be reasonable and reasonably mitigated, and the impact of privacy is found to be low.

6. Solar Access

The assessment of the impact of solar access pertains to the level of overshadowing that the proposed development causes upon surrounding properties.

Given the site orientation, setbacks proposed and placement of structures on surrounding allotments, the development will have negligible overshadowing impacts upon adjoining properties and retains a sufficient provision of solar access.

Therefore, the level of overshadowing is found to equate to a low impact on solar access.

Accordingly, it can be reasonably surmised that the impact of the development is low and, in the context of the site and surrounding developments, is unlikely to change the level of amenity enjoyed by the locality.

Requirement 4: *A dense bushland buffer will be retained or established along Forest Way. Fencing is not to detract from the landscaped vista of the streetscape.*

Comment: The subject development site is not adjacent to nor adjoining Forest Way and accordingly this requirement is not applicable to the subject development.

The architectural plans do not detail any fencing and therefore no fencing is assessed or approved as a part of this application.

Requirement 5: *Development in the locality will not create siltation or pollution of Middle Harbour.*

Comment: Adequate conditions can be imposed on the consent if the development is found to be worthy of approval which will ensure that siltation and pollution does not enter Middle Harbour.

BUILT FORM CONTROLS

Built Form Compliance Table C8 Belrose North Locality Statement					
Built Form Standard		Required	Proposed	Comment	Compliance
Building Height	Ridge	8.5m	8.3m	The development is beneath the maximum permissible Building Height and thereby satisfies this requirement.	Yes
	Ceiling	7.2m	Max. 8m	Refer to discussion elsewhere.	No
Housing Density		1 dwelling per 20ha	27 dwellings on 0.29 HA	The development seeks a housing density variation of 85.1% and requires the concurrence of the Minister for Planning.	No
Front Setback		20m	20m	The development as proposed complies with the requisite front setback control.	Yes
Side Setback (north east)		10m	6.415m – 15.4m	Refer to discussion elsewhere.	No
Side Setback (south west)		10m	6.0m – 9.15m	Refer to discussion elsewhere.	No
Rear Building Setback		10m	10m	The development maintains a minimum building setback of 10m to the rear boundary, thereby satisfying this requirement.	Yes
Rear Setback Area		Free other than fence and driveway	Driveway	The provision of a driveway within the rear setback area is permissible in accordance with the requirement.	Yes
Bushland setting		50%	50% (1150m ²)	A minimum of 50% of the site is being landscaped with local species, thereby satisfying this requirement.	Yes

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	Yes	The building is not found to result in any unreasonable glare and reflection. If worthy of approval, a condition is recommended restricting the roof of the development to a medium to dark range colour.	Yes
CL39 Local retail centres	No	The site is not identified as being within a local retail centre and accordingly, this principle is not applicable to the assessment of this application.	N
CL40 Housing for Older People and People with Disabilities	No	The development is not for the purpose of Housing for Older People and People with Disabilities.	N/A
CL41 Brothels	No	The development is not for the purpose of a brothel.	N/A
CL42 Construction Sites	Yes	Conditions can reasonably be imposed on any consent to ensure that development does not unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment. Accordingly, this General Principle is addressed by way of condition.	Yes
CL43 Noise	Yes	The development application is accompanied by an acoustic report which demonstrates that the development will not have any unreasonable nor adverse acoustic impacts upon adjoining properties. This report has also been reviewed by Council's Environmental Health Officer who has raised no objections to the development, subject to conditions.	Yes
CL44 Pollutants	No	The development for the purpose of a boarding house is not anticipated to result in the emission of atmospheric, liquid or other pollutants that would unreasonable diminish the amenity of adjacent properties, the locality of waterways.	N/A
CL45 Hazardous Uses	No	Development for the purpose of a boarding house is not found to be a hazardous use.	N/A

CL46 Radiation Emission Levels	No	The development is for the purpose of a boarding house which will not cause excessive radiation emission levels.	N/A
CL47 Flood Affected Land	No	The site is not identified as being flood affected land.	N/A
CL48 Potentially Contaminated Land	Yes	The site has been vacant for an extended period of time and is considered unlikely that the land would be contaminate. Accordingly, the land is suitable for the proposed development.	Yes
CL49 Remediation of Contaminated Land	No	Refer Clause 48 above.	N/A
CL49a Acid Sulphate Soils	No	The site is not identified as being subject to Acid Sulphate Soils and accordingly, no further assessment on this principle is required.	N/A
CL50 Safety & Security	Yes	The development is found to enhance the safety and security of the area compared to the site's vacant present state. The building will allow for casual surveillance and passive overlooking of the surrounding vicinity.	Yes
CL51 Front Fences and Walls	No	The architectural plans do not detail any proposed front fence or wall.	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	<p>Whilst the subject development site is in proximity to a large area of bushland to the north, it does not adjoin this bushland.</p> <p>The subject site is bound by residential properties on all sides which creates an approximate 115m buffer between the site and the bushland.</p> <p>In any event, the development is found not to threaten the nearby bushland and public open spaces.</p>	N/A
CL53 Signs	No	The application does not propose the addition of any signage at the development. If the application is found to be worthy of approval, a condition is included in the recommendation of this report requiring a DA to be lodged for any signage.	N/A

CL54 Provision and Location of Utility Services	Yes	Utility services can be provided and relevant conditions are included in the Recommendation	Yes
CL55 Site Consolidation in 'Medium Density Areas'	No	The site is not within a locality identified as a 'Medium Density Area' and accordingly, no further assessment on this principle is required.	N/A
CL56 Retaining Unique Environmental Features on Site	Yes	The subject development site is not considered to accommodate any <i>distinctive environmental features</i> . Whilst it is acknowledged that the development requires the removal of a large number of trees and significant excavation into the landform, the development is not considered to unreasonably impact upon rock outcrops, remnant bushland and watercourses. The works will not result in any impacts upon environmental features on adjoining sites, particularly the large parcel of bushland to the north.	Yes
CL57 Development on Sloping Land	Yes	<p>The topography of the site (as described earlier in this report) warrants Clause 57 of General Principles to be assessed.</p> <p>The development is found to meet the intent of the clause as the building does progressively step down the slope of the land, reducing in height as it does, and is split into three individual pavilions to reduce scale.</p> <p>The quantum of excavation is discussed in detail earlier in this report with reference to recent Caselaw which justifies the level of excavation.</p> <p>The development application is accompanied by a Geotechnical Investigation by White Geotechnical Group which determines that the development is suitable for the site.</p>	Yes
CL58 Protection of Existing Flora	Yes	Whilst tree removal is proposed the level of replacement planting and landscape regime is satisfactory.	Yes
CL59 Koala Habitat Protection	No	The site is not identified as being a koala habitat protection area, and a review of the site reveals a low chance that koalas would traverse the site. No further assessment on this principle is required.	N/A

CL60 Watercourses & Aquatic Habitats	Yes	Councils Environment Department is satisfied that the proposal will not adversely impact upon any watercourses.	Yes
CL61 Views	Yes	<p>Clause 61 stipulates 'Development is to allow for the reasonable sharing of views'.</p> <p>In determining view loss, the principles outlined within the Land and Environment Court Case Tenacity Consulting Pty Ltd Vs Northern Beaches Council (2004) NSWLEC 140, have been used. In Tenacity Consulting Pty Ltd Vs Northern Beaches Council (2004) NSWLEC 140 the Land and Environment Court provided a four (4) planning principles to be used in the assessment of view loss.</p> <p>The development is not found to cause any unreasonable nor adverse view loss from any surrounding public or private properties, and thereby allows for the reasonable sharing of views.</p>	Yes
CL62 Access to sunlight	Yes	The development ensures a compliant level of solar access remains available to the private open spaces of adjoining sites, and therefore complies with this General Principle.	Yes
CL63 Landscaped Open Space	Yes	The provision of landscaped open space provided by the development and the quantum and variety of plants shown on the landscape plan accompanying the application adequately demonstrate that the development can satisfy the objectives of this General Principle.	Yes
CL63A Rear Building Setback	Yes	<p>In localities where a rear building setback applies, the objectives of the rear building setback controls are:</p> <ul style="list-style-type: none"> • to create a sense of openness in rear yards, and • to preserve the amenity of adjacent land, and • to maintain the visual continuity and pattern of buildings, rear gardens and landscape elements, and • to provide opportunities to maintain privacy between dwellings, and • in medium density areas, to minimise the visual effect of podiums and to control the density of development, and 	Yes

		<ul style="list-style-type: none"> to provide opportunities for the planting of substantial native trees. <p>The proposed development has a 10m rear setback with a driveway traversing through the setback area. The provision of rear setback is found to be consistent with the objectives of CL63A in that it does not detract from a sense of openness; does not impinge or impact upon the amenity of adjacent land; is not inconsistent with the pattern of driveways upon surrounding allotments; does not detract from the provision of privacy afforded to other allotments and; provides opportunities for the planting and establishment of substantial native trees as demonstrated on the landscaped plans accompanying the development application.</p>	
CL64 Private open space	Yes	The development provides a sufficient provision of private open space (greater than 10m ²) in the form of communal rooms, north-facing terrace and garden areas.	Yes
CL65 Privacy	Yes	<p>The subject site is bound by a dwelling house (No. 16 Wyatt Avenue) to the west, and a vacant lot to the east. Despite being vacant land, consideration is given to the privacy of both adjoining allotments.</p> <p>The provision of privacy provided by the development is found to be satisfactory by virtue of the building setbacks, architectural treatment and orientation of the windows, and the proposed provision of landscaping.</p> <p>Accordingly, it is found that the development provides a satisfactory provision of privacy and does not cause unreasonable direct overlooking into habitable rooms and principal private open space of other dwellings (both existing and future).</p>	Yes
CL66 Building bulk	Yes	The proposal has been designed to ensure the building elements contain articulation and a built form that is contained in three pavilion like forms. This combined with the front, side and rear setbacks ensures the proposal has a bulk and scale when viewed from the public domain maintains the residential context of the street and area.	Yes

CL67 Roofs	Yes	The roof design of the building is considered to be satisfactory in that it contributes to the overall architectural form and facilitates clerestory windows for solar penetration and stormwater collection.	Yes
CL68 Conservation of Energy and Water	Yes	The proposal includes energy and water saving elements.	Yes
CL69 Accessibility – Public and Semi-Public Buildings	No	The development is not a public or semi-public building.	N/A
CL70 Site facilities	Yes	The design of the proposal has placed service function structures like clothes drying and waste storage in locations that are not visible from the public domain or Wyatt Avenue. Therefore the development complies with the General Principle.	Yes
CL71 Parking facilities (visual impact)	Yes	This General Principle requires that car parking facilities are to be screened from the public domain, and that it be located underground or in a semi-basement. The entrance to the carpark is located at the rear of the site and is not visible from the public domain. The carpark is located in a partial semi-basement / basement to reduce views of the car parking area. Therefore, the development complies with the General Principle.	Yes
CL72 Traffic access & safety	Yes	The development application and proposed vehicle access point has been reviewed by Council's Traffic Engineer whom raises no objections to the development, subject to conditions as recommended.	Yes
CL73 On-site Loading and Unloading	Yes	The development does not have any formal on-site loading and unloading zone, however this is found to be satisfactory as such occurrences would be infrequent, and the majority of loading and unloading would generally be restricted to clothing and accessories to fill a single bedroom. The development has sufficient areas either on the driveway or in the basement car park to facilitate the loading and unloading of items	Yes

		<p>without impacting on the amenity or traffic safety of occupants of the development.</p> <p>Therefore, the development complies with the General Principle.</p>	
CL74 Provision of Carparking	Yes	<p>Schedule 17 of the WLEP 2000 does not include a car parking ratio for Boarding House developments and as such, the development was designed in accordance with the SEPP ARH standards that applied at the time of lodgement (being 0.2 spaces per room).</p> <p>At this ratio, the development required 5.4 parking spaces. After lodgement of the application, the SEPP ARH parking standards changed to 0.5 space per room, equating to a parking requirement of 13.5 spaces. However, as detailed later in this report, SEPP ARH does not apply to this development either.</p> <p>The proposal includes 10 car parking spaces, 8 motorcycle spaces and a large quantity of bicycle parking spaces.</p> <p>Accordingly, the provision of car parking must be solely assessed against General Principle Clause 74.</p> <p>Clause 74 requires that adequate off-street carparking is to be provided with regard to:</p> <ul style="list-style-type: none"> • the land use • availability of public transport • availability of alternative car parking <p>The development is a Category Two land use and is located in proximity to a bus stop that is frequently used throughout the day. There is unrestricted car parking available on Wyatt Avenue, however reliance on street parking is not found to be a sustainable solution in perpetuity, and can therefore only be relied upon as a <i>bonus</i> or <i>additional</i> parking when a development provides a satisfactory provision of car parking on site.</p> <p>It is concurred with a number of submissions that additional car parking on the site would be of benefit to occupants of the development, however it is prudent to understand that there is no information put forth by a suitably qualified person, and therefore this Assessment Report relies upon the traffic and parking assessment provided by the applicant, and the independent traffic and parking</p>	Yes

		<p>assessment undertaken by Council's traffic engineer.</p> <p>As both of these assessments are favourable to the provision of car parking provided, it is found that the development satisfies this General Principle.</p>	
CL75 Design of Carparking Areas	Yes	Council's Traffic Engineer has reviewed the proposed car park design and is satisfied that it is compliant with the relevant Australian Standards. If the application is to be worthy of approval, conditions of consent requiring compliance with Australian Standards will ensure that the car park is built correctly.	Yes
CL76 Management of Stormwater	Yes	The provision of stormwater management has been assessed by Council's Development Engineer and Stormwater Assets team who raises no objection to the development, subject to Deferred Commencement Conditions as included in the recommendation of this report.	Yes
CL77 Landfill	Yes	The development will require a minimal amount of landfill adjacent to the areas of excavation. The quantum of fill is not of a scale or magnitude that would have any adverse impacts upon the visual and natural environment or the amenity of adjoining surrounding properties. Accordingly, the development complies with this General Principle.	Yes
CL78 Erosion & Sedimentation	Yes	Standard conditions can be imposed on the consent if the application is worthy of approval which requires adequate erosion and sedimentation fencing and measures to be in place. Accordingly, the development can comply with this General Principle.	Yes
CL79 Heritage Control	No	The site is not within the vicinity of any heritage item.	N/A
CL80 Notice to Metropolitan Aboriginal Land Council	Yes	<p>Upon receipt, the development application was referred to the Aboriginal Heritage Office for assessment.</p> <p>On 16 May 2018 Council met an Officer from the Aboriginal Heritage office on the site.</p>	Yes

		<p>The assessment concluded that there were no visible items of Aboriginal history or significance on the site.</p> <p>Standard conditions are imposed on the recommendation of this report requiring works to stop if any items of Aboriginal significance are located during excavation or building.</p> <p>(NB: Refer to referral comments later in this report).</p>	
CL82 Development in the Vicinity of Heritage Items	No	The development is not within the vicinity of any heritage items.	N/A
CL83 Development of Known or Potential Archaeological Sites	No	The site is not on land that is known to accommodate any potential archaeological sites. It is not expected or anticipated that any potential archaeological sites or items will be located during the excavation period of this application.	N/A

SCHEDULES

Schedule	Applicable	Compliant
Schedule 5 State policies	Yes	Yes
Schedule 6 Preservation of bushland	Yes	Yes
Schedule 7 Matters for consideration in a subdivision of land	No	N/A
Schedule 8 Site analysis	Yes	Yes
Schedule 9 Notification requirements for remediation work	No	No
Schedule 10 Traffic generating development	N/A	N/A
Schedule 11 Koala feed tree species and plans of management	N/A	N/A
Schedule 12 Requirements for complying development	N/A	N/A
Schedule 13 Development guidelines for Collaroy/Narrabeen Beach	N/A	N/A

Schedule 14 Guiding principles for development near Middle Harbour	N/A	N/A
Schedule 15 Statement of environmental effects	N/A	N/A
Schedule 17 Carparking provision	N/A	N/A

OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:

SEPP – (Building Sustainability Index: BASIX) 2004

The development application was not lodged with a BASIX Certificate. During the assessment of the application, Caselaw from the Land & Environment Court of NSW established that individual rooms in a boarding house can be classified as ‘dwellings’ in circumstances where rooms can be reasonably described as *self-contained and capable of being occupied or used as a separate domicile*. Such is the case for this application, where each boarding rooms has kitchen, bathroom and living facilities.

Accordingly, following a request from Council, the applicant supplied a BASIX Certificate for the development. If this application is found to be worthy of approval, a condition of consent endorsing the BASIX Certificate is to be imposed.

(Note: refer *SHMH Properties Australia Pty Ltd v City of Sydney Council [2008] NSWLEC 66*)

SEPP (Affordable Rental Housing) 2009 (SEPP ARH)

SEPP ARH is generally the prevailing environmental planning instrument in the assessment of boarding house developments; however, such is not the case for this particular application.

Clause 26 of the SEPP details the zones to which the boarding house policy applies, and these zones are limited to:

- (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.

The subject site is not within a ‘zone’, rather it is in the C8 Locality pursuant to WLEP 2000 which does not conform to the ‘standard instrument.’

It must then be determined if this locality can be considered as an *equivalent land use zone* pursuant to Clause 5 of the SEPP, and pursuant to Clause 1.6 of the SEPP (Exempt and Complying Development Codes) 2008.

Clause 1.6 (1A) reads:

Land identified as “Deferred matter” on the Land Application Map within the meaning of Warringah Local Environmental Plan 2011 is, for the purposes of this Policy, taken to be in Zone E3 Environmental Management.

Therefore, it can be considered that the C8 Locality is the equivalent zoning of E3 Environmental Management of a standard instrument.

Clause 26 of SEPP ARH does not stipulate that the boarding house policy applies to Zone E3 Environmental Management and therefore, the SEPP ARH does not apply to the development for the purpose of a boarding house upon this land.

Notwithstanding the applicability of the SEPP ARH, the WLEP 2000 lacks controls pertaining to the assessment of boarding house developments, and it is therefore warranted to assess the application against the relevant provisions of the SEPP ARH.

An assessment of the application against Clause 30 (1) – Standards for boarding houses – of the SEPP ARH follows, and it is to be fore noted that this assessment against the SEPP ARH holds no determining weight to the recommendation of this application:

(a) If a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.

The boarding house has more than 5 rooms and more than 1 communal room, and therefore complies with this requirement.

(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 25m².

The architectural plans do not differentiate the floor area of each whole boarding room commensurate to the dimension excluding kitchen and bathroom facilities. In this regard, each room has an area of between 27m² and 31m².

Insufficient information is supplied to ascertain whether this development would comply with this requirement.

(c) No boarding room will be occupied by more than 2 adult lodgers.

No boarding room proposed has the capacity to accommodate more than 2 adult lodgers, and this is buttressed by the accompanying Plan of Management.

Accordingly, the development complies with this requirement.

(d) Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodged.

Each boarding room has a private kitchen and bathroom, thereby satisfying this requirement.

(e) If the boarding house has a capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.

The development has the capacity to accommodate more than 20 lodgers. A boarding room has been dedicated to be occupied by a boarding house manager.

Accordingly, the development complies with this requirement.

(f) If the boarding house is on land zoned primary 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 subject site is not zoned primarily for commercial purposes and therefore this control does not / would not apply.

(g) At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.

The development has 27 boarding rooms which requires 13.5 car parking spaces and 27 bicycle spaces, bicycle spaces and motorcycle spaces.

The development provides 10 car parking spaces, 8 motorcycle spaces and an undisclosed quantum of bicycle spaces (although it appears to be in excess of 27).

The development would not comply with this requirement.

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.

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 vacant 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.

EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable	Conditioned
Clause 92 (Demolition of Structures)	Yes	Yes

Clause 93 & 94 (Fire Safety)	Yes	Yes
Clause 98 (BCA)	Yes	Yes

REFERRALS

Referral Body Internal	Comments	Consent Recommended
Building Assessment – Fire and Disability upgrades	Proposal review limited to final certification issues only in the event the proposal is approved. No project /proposal assessment conducted. Accordingly, this assessment is restricted to simply provision of a condition for Final Certification of Essential Services and an ongoing Fire Safety Services Maintenance condition.	Yes
Environmental Health (Industrial)	No objections to the proposed development, subject to conditions as recommended.	Yes
Landscape Officer	<p><u>Additional information and amended plans. Comment 21/09/2018</u></p> <p>Following further discussion and review of amended plans, it is apparent that retention of the trees along the north eastern side of the site is not feasible due to vehicle passing bays for RFS access as well as stormwater infrastructure upgrade works by Council.</p> <p>In view of the above, the issues raised previously regarding relocation of the drive to enable tree retention are no longer pressed.</p> <p>In consideration of the information provided, the DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.</p> <p><u>Original Comment</u></p> <p>Concern is raised regarding side setback landscape treatments which may be able to be addressed via design amendments.</p> <p>The proposed driveway along the north eastern side of the site occupies a significant proportion of the side setback. It is noted that side setbacks proposed are less than those required under the planning controls.</p> <p>The resultant area for landscape planting along the north eastern side is relatively narrow adjacent to the building. Integration into the locality and improved alignment with the planning controls would be better achieved if the driveway could be narrowed to single lane (with passing bays), or, preferably, removed from the north eastern side and access directly under the building from Wyatt Ave, providing more opportunity for enhancing the landscape in the side and rear setbacks.</p> <p>It is unclear why the driveway needs to continue onto the adjoining property through the subject Lot when existing</p>	Yes

	<p>access is available to the adjoining property off Wyatt Avenue. Reducing or removing the driveway along the length of the north eastern boundary would provide for better integration of building bulk, maintaining and enhancing the character of the Locality and improved pedestrian access and use of outdoor spaces.</p> <p>At this stage the proposal is not supported with regard to landscape issues, however if amended plans or additional information regarding the comments above are provided, additional assessment can be undertaken.</p> <p>It is noted that several trees along the Wyatt Ave frontage of the site indicated to be retained on the Architectural Plans will be required to be removed (as indicated on the Landscape Plans) to accommodate the works proposed. It is also noted that the Landscape Plans do not provide for local native species as required under the Locality Statement - Bushland setting</p> <p><i>Bushland setting</i></p> <p><i>A minimum of 50 per cent of the site area is to be kept as natural bushland or landscaped with local species.</i></p> <p>These issues can, however, be addressed via conditions.</p>	
NECC (Development Engineering)	<p>Development Engineers have reviewed the proposal and raise no objections subject to condition.</p> <p>Appropriate conditions are also issue to comply with Council's Traffic Engineers, Roads Assets, Stormwater Assets Teams with respect to driveway width, kerb and gutter alignment, management of public road stormwater, etc.</p>	Yes
NECC (Riparian Lands and Creeks)	<p>No objection to the proposal as the property is not identified as being subject to detailed Waterways and Riparian Lands Assessment.</p>	Yes
NECC (Water Management)	<p>No objection to the proposal, subject to conditions.</p>	Yes
Urban Design	<p>No objections to the proposed development and no conditions recommended.</p>	Yes
Traffic Engineer	<p>(31 May 2018)</p> <p><i>The proposal is for construction of a boarding house containing 27 rooms.</i></p> <p><i>The car parking and bicycle parking provision complies with the SEPP requirements, but there are 4 motorbike spaces provided within the car park while the provision of 6</i></p>	Yes

	<p>motorbike spaces designed in accordance with Australian Standards AS2890.1:2004 is required.</p> <p>The passing bay proposed next to the access driveway shall be extended to kerb providing a 5.5m wide access driveway and 5.5m wide passing bay for the first 6m of the driveway from the property boundary.</p> <p>Footpath and kerb and guttering shall be constructed at cost of the applicant from its boundary with No.16 Wyatt Avenue continuing to the existing footpath and kerb guttering outside No.12 Wyatt Avenue. The footpath and kerb and guttering shall be consistent with the existing footpath and kerb and guttering and is to meet the Council's development engineer's requirements.</p> <p>The proposed passing bay on the northern side of the site is to be improved by extending the passing bay and provision of a convex mirror improving the inter-visibility between vehicles exiting the car park and the vehicles turning onto the ramp leading to the car park.</p> <p>In view of above, no objection is raised to the proposal subject to conditions.</p>	
Waste Officer	No objections to the development.	Yes

Referral Body External	Comments	Consent Recommended
Aboriginal Heritage Office	<p>(6 April 2018)</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Should any Aboriginal sites be uncovered during earthworks, works should cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council should be contacted.</p>	Yes – subject to conditions
Ausgrid	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.	Yes

<p>Sydney Water</p>	<p>(24 April 2018)</p> <p><i>Due to the proximity of the proposed development to Sydney Water assets, we recommend that Council imposing the following conditions of consent:</i></p> <p>Building Plan Approval</p> <p><i>The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.</i></p> <p><i>The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.</i></p> <p><i>The Tap in™ service provides 24/7 access to a range of services, including:</i></p> <ul style="list-style-type: none"> • <i>building plan approvals</i> • <i>connection and disconnection approvals</i> • <i>diagrams</i> • <i>trade waste approvals</i> • <i>pressure information</i> • <i>water meter installations</i> • <i>pressure boosting and pump approvals</i> • <i>changes to an existing service or asset, e.g. relocating or moving an asset.</i> <p><i>Sydney Water's Tap in™ online service is available at:</i></p> <p><i>https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</i></p> <p>Section 73 Certificate</p> <p><i>A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.</i></p> <p><i>It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.</i></p> <p><i>Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.</i></p>	<p>Yes – subject to conditions</p>
----------------------------	---	------------------------------------

Section 4.15 “Matters for Consideration”	
Section 4.15 (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 4.15 (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	Yes
Section 4.15 (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	Yes
Section 4.15 (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	Yes
Section 4.15 (1) (a)(iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 4.15 (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	Yes
Section 4.15 (1) (c) – Is the site suitable for the development?	Yes
Section 4.15 (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	Yes
Section 4.15 (1) (e) – Is the proposal in the public interest?	Yes

SECTION 2 – ISSUES

PUBLIC EXHIBITION

The subject application was publicly exhibited in accordance with the EPA Regulation 2000 and the applicable Development Control Plan.

As a result of the public exhibition of the application Council received 98 submissions. A list of the persons which made submissions against the application can be found attached to this report as an **Appendix**.

Of the submissions received, approximately 20% were in support, and 80% were opposed to the development.

A preliminary review of the application raised issues that were provided to the applicant by letter dated 10 August 2018. The applicant provided additional information and revised plans on 21 August 2018 addressing Council's concerns. These plans were not renotified or advertised in accordance with the WDCP 2000 requirements as the amended application differs only in minor respects from the original application, and does not result in a greater environmental impact.

The submissions received raised the following issues / concerns with the application:

1. Character, location and DFC
2. Built Form and Building Bulk
3. Traffic and Parking
4. SEPP ARH applicability
5. Social concerns
6. Bushfire concerns
7. Construction impacts
8. Operational impacts (including noise and light)
9. Trees, Wildlife Corridor and Unique Environmental Features
10. Other

1. **Character, location and DFC**

Submissions received comment, both in support and in objection, on the location of the site and development on Wyatt Avenue for the purpose of a boarding house development.

Comment

Development for the purpose of a boarding house is an innominate Category Two land use within the C8 Locality, and it should additionally be noted that boarding houses are permitted on the adjoining R2 land pursuant to SEPP ARH and the WLEP 2011. Accordingly, development for the purpose of a boarding house is permitted with consent upon the land by the prevailing instrument (WLEP 2000) and the site location is therefore appropriate for the typology of development.

A detailed assessment of the DFC earlier in this report has established that the proposal is consistent with the DFC of the C8 Belrose North locality and it need not be reproduced again.

Several submissions received also discuss the ‘character’ of the physical form of the development, and of the residents of the development. These matters are discussed in their respective clauses below (2 and 5).

2. **Built Form and Building Bulk**

Submissions received oppose the development due to its size, scale and architecture, and note the various built form variations sought as a part of this application.

Comment

There are several notable factors that must be understood prior to assessing the bulk of a development. The first is that insofar as a building design is considered, Council is not the ‘design police’, and therefore the assessment is limited to compliance with the requisite built form controls and General Principles – in this case pertaining to building bulk and materiality.

The second factor pertains to compatibility with other developments. ‘Compatible’ does not refer to ‘being the same’ (i.e. being identical to adjacent buildings), rather compatible can generally refer to ‘being able to co-exist in harmony’.

As noted earlier in this report the dominant land use of the locality is not detached dwellings, and it could be demonstrated that the scale of the building is not dissimilar to other buildings in the locality. However, for the circumstance of this application it is also reasonable to consider the development compared to developments in the R2 land adjoining the site to the south.

The building will unarguably be one of the larger buildings along Wyatt Avenue, and at the time of writing is thought to be capable of accommodating the largest number of persons in a residential capacity. Despite this size, the building is considered to be capable of co-existing in harmony with surrounding properties for the reasons detailed throughout this report (i.e. provision of privacy, operational management etc.).

An assessment of the built form control variations can be found elsewhere in this report.

3. **Traffic and Parking**

A number of submissions received from local residents note that Wyatt Avenue lacks car parking, and the submissions primarily relate this lack to the existence of the John Colet School and the activities associated with Wyatt Reserve. Additional concerns are raised regarding the congestion of the local road network and Forest Way. The submissions note that the development is likely to further exacerbate the traffic and congestion issues.

Comment

The development is accompanied by a detailed traffic and parking report prepared by ML Traffic Engineers, and this report has been independently assessed by Council’s Traffic Engineers.

Council’s Traffic Engineers raise no objection to the provision of car parking provided by the development, or to any impacts that may be caused by the development. Accordingly, this matter is considered not to warrant the refusal of

the application.

4. **SEPP ARH Applicability**

Submissions received note that the SEPP Affordable Rental Housing (ARH) does not apply to the development and state therefore that the application should be rejected.

Comment

SEPP ARH is not applicable to the development, however development for the purpose of a boarding house is an innominate use under WLEP 2000 as a Category Two development. Therefore boarding houses are still a permissible form of development on the site.

This matter does not warrant the refusal of the application.

5. **Social Concerns**

A number of submissions received raise concern that residents of a boarding house are not long-term residents are therefore: have no respect for the community, increase crime rate for the area, put children at danger etc. [sic]. Additional concerns were received, however the content of these submissions contain derogatory and defaming remarks that need not be considered in the assessment of this application.

Comment

Whilst it is concurred with that the residents of a boarding house are a more transient population than residents whom have lived in their homes from 20 years, this by no means correlates to the concerns that have been raised.

A number of the concerns raised are unfounded and are therefore not for consideration under this application.

The assessment of the application has found that potential residents of the boarding house will have no adverse impact on the locality. Therefore this matter does not warrant the refusal of the application.

6. **Bushfire Concerns**

Submissions received raise concern regarding the proximity of the development to bushland and the evacuation of residents in the event of a bushfire.

Comment

The subject site is not upon land identified as 'bushfire prone land', although it is noted that such an attribute exists north of the site and affects other properties. Therefore, no further assessment is required or warranted on these matters.

7. **Construction Impact**

Concern is raised in submissions received that the construction of the development may have adverse impacts upon the surrounding environment by virtue of sediment and erosion entering the bushland.

Comment

This concern is concurred with and can be reasonably addressed by way of condition, if the NBLPP is of the mind to approve the application.

8. **Operational Impacts**

Concern is raised in submissions received regarding the acoustic impacts that the development may cause once in operation.

Comment

Whilst it is implicit that a premises accommodating 54 persons has greater opportunities to produce more noise than a premises 5 persons, a boarding house is subject to stringent requirements that a standard dwelling house would not be required to meet.

That is, the application is accompanied by a detailed Operational Management Plan that goes through how the development will be managed. In addition the application is buttressed by an Acoustic Report that details that the development is unlikely to have any adverse or unreasonable acoustic impacts upon adjoining properties.

Accordingly, the activities of the boarding house and the use of outdoor areas etc. is limited as per the Operational Management Plan. A standard dwelling house does not have such requirements and there is no way to restrict noise. It therefore could not be said that a boarding house will be a 'bad neighbour'.

This matter has been reviewed by Council's Environmental Health Officers whom raise no objections to the development, subject to conditions as recommended.

9. **Trees, Wildlife Corridor and Unique Environmental Features**

Concerns are raised in the majority of submissions received regarding tree removal, and the subsequent impact this may have upon any wildlife corridors and the uniqueness of the site.

Comment

The tree removal is supported based on Councils Landscape Officers and Natural Environment Officers advice and the provision of replacement planting and landscape regime will offset the adverse effects of the tree removal.

10. **Other**

Submissions received raise a number of other concerns throughout regarding other recent development applications in the area, interests of the applicant etc.

These matters are not for consideration under the EP&A Act 1979 and are therefore not discussed within this report.

Other issues that are raised and are considered in this report include view loss and light spill.

Comment

Any development on this site is inevitably going to result in a some magnitude of visual obstruction of vistas from the public and private domain, by virtue of having a building on a presently vacant block of land. The view loss experienced is considered to be negligible and is considered to be consistent with view loss caused by other developments on the northern side of Wyatt Avenue.

Comment

Light spill is considered reasonable based on the design of the proposal, its residential use and physical separation from adjoining residential premises.

BUILT FORM CONTROLS

As detailed within Section 1 (Code Assessment) the proposed development does not comply with the following Built Form Controls, accordingly, further assessment is provided hereunder.

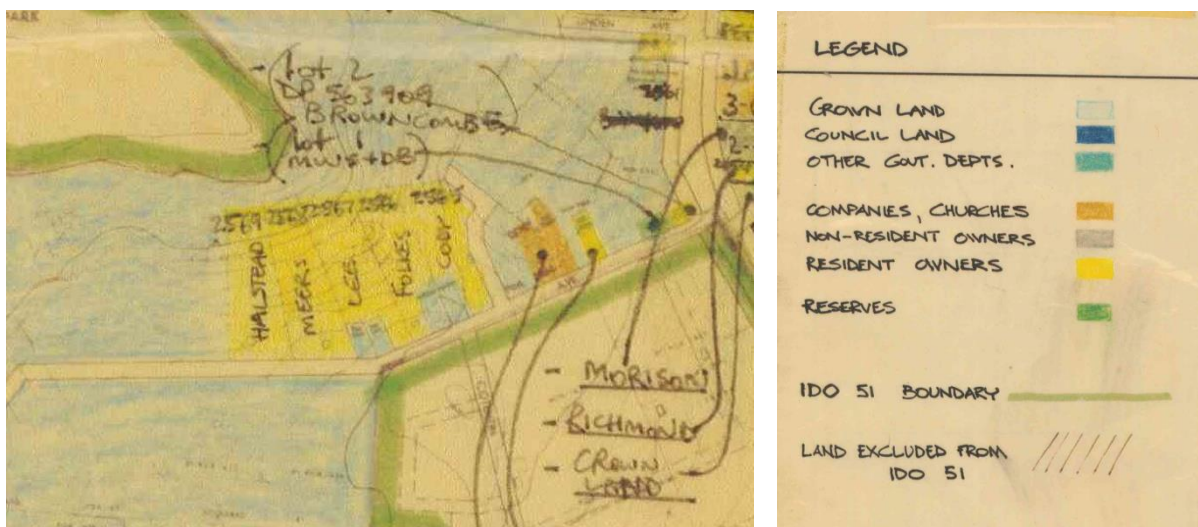
NON-COMPLIANCE: Housing Density

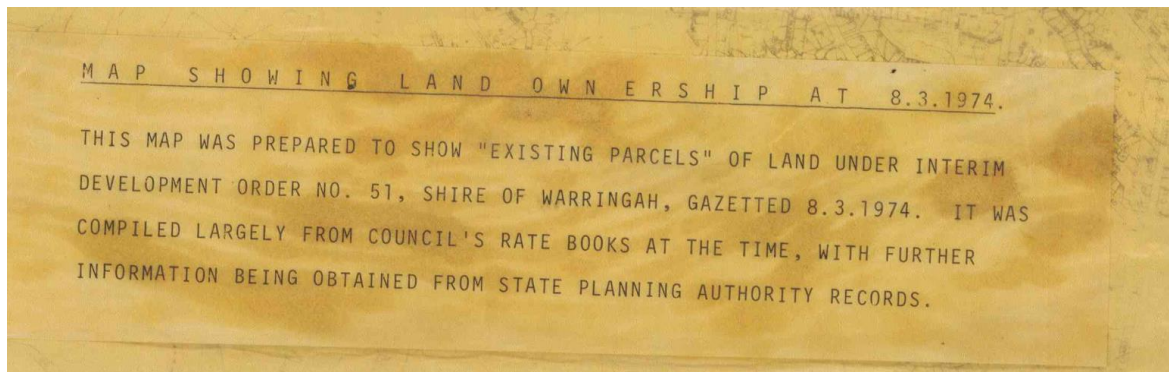
The WLEP 2000 provides the following built form standards pertaining to housing density (number added):

- i. The maximum housing density is 1 dwelling per 20 ha of site area, except:
 - ii. where this standard would prevent the erection of one dwelling on an existing parcel of land, being all adjacent or adjoining land held in the same ownership on 8 March 1974 and having a combined area of not less than 2 ha, and
 - ii. However, consent may be granted for development that will contravene these housing density standards but, if by more than 10 per cent, only with the concurrence of the Director.
 - iii. The matters which shall be taken into consideration in deciding whether concurrence should be granted are:
 - iv. (a) whether non-compliance with the development standard in issue raises any matter of significance for State or regional environmental planning, and
 - v. (b) the public benefit of maintaining the planning controls adopted by this plan.

There are additional notes in the standard which discuss how to calculate housing density, but these need not be reproduced for this report.

The standard is prescriptive in that the housing density standard for this development has an exception provision as per (ii) above. This relates to the background and history section of this report in the former half as the subject site and the adjoining Lot 2616 DP 752038, known as 10-12 or 12 Wyatt Avenue, were held in the same ownership at the specified date, as per the below reproduced map:





The two sites shown to be in the same ownership at 8 March 1974 are very similar in shape and size, and have a total approximate area of 4,596 square metres (or 0.45 HA).

It is also prudent to establish that recent Caselaw clarified that each room in a boarding house can be defined as a 'domicile' (therefore dwelling) as previously discussed under the SEPP BASIX section of this report.

Refer SHMH Properties Australia Pty Ltd v City of Sydney Council

Accordingly, for the purpose of the housing density assessment, the subject site is proposed to accommodate 27 dwellings.

Despite the two adjoining sites being in the same ownership at 8 March 1974 the combined area is lesser than 2HA, and accordingly the exception provisions of the control do not apply.

Therefore, the calculable variation to the housing density standards is 85.1%, being 27 dwellings on 0.229 HA.

Given that this quantum of variation is greater than 10%, the concurrence of the 'Director' (Minister of Planning or their delegates) is required, should the application be found worthy of support by the NBLPP.

The standard contains two matters for consideration for the Director in determining whether to grant concurrence or not, being:

(a) whether non-compliance with the development standard in issue raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the planning controls adopted by this plan.

It is not for Council to determine whether or not concurrence should be granted, however the WLEP 2000 lacks any objective assessment when considering the variation to the housing density standard other than the above. It is therefore warranted to address the two matters for consideration.

Whether non-compliance with the development standard in issue raises any matter of significance for State or regional environmental planning.

There are no known environmental planning instruments that would consider the variation request to be detrimental to any matter of significant for State of regional planning and therefore, the development satisfies this requirement.

The public benefit of maintaining the planning controls adopted by this plan.

The WLEP 2000 is 18 years old at the time of writing this report and, comparative to other similar environmental planning instruments, is outdated.

There are several matters that establish that there is no discernible public benefit in maintaining the planning controls adopted by this plan:

- Any form of residential development on this land would be contrary to the housing density standard and therefore if the control were to be strictly enforced, the land would be undevelopable.
- The site is bound by land to the south that is zoned for R2 Low Density Residential development pursuant to the Warringah Local Environmental Plan 2011. Each of these R2 sites located some 20m away could accommodate a boarding house development of the same scale as the proposal.
- The development provides housing for essential workers and for alternate housing choices. The need for affordable housing in the Northern Beaches is in the public interest and need not be justified in this report.
- The development complies with the DFC of the C8 Locality.
- The development has no unreasonable or adverse impact upon adjoining land.

Therefore, it can be surmised that there is public benefit in the development itself, and that strictly maintaining the housing density development standard is contrary to the public benefit and stagnates the ability to development the site.

Accordingly, the variation sought to the housing density standard is supported in this particular circumstance.

If the NBLPP is of the mind to approve this application, concurrence must be sought by the Director for the variation to the housing density standard prior to consent being issued.

NON-COMPLIANCE: Building Height (ceiling height)

The development control requires that buildings are not to exceed 7.2 metres from natural ground level to the underside of the ceiling. The development attains a maximum ceiling height of 8 metres resultant of the raked ceiling design and therefore varies the control by up 11.1% (800 mm).

The objectives of the building height development controls are to:

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

Comment: The proposed building will remain generally well below the overall height limit of 8.5m, and generally steps down the slope of the site, helping to minimise the height and bulk. The proposal is designed in three pavilion-like forms, and these are well articulated to further break up solid walls and mitigate against the overall bulk of the building. Given these features the proposal is not considered to result in a building that will be unreasonably visually dominant by virtue of height or bulk.

- Preserve the amenity of surrounding land.

Comment: The amenity of surrounding land will be generally preserved to a reasonable level, as assessed in the General Principles and Public Exhibition sections of this report. The proposed ceiling height does not cause the development to breach the overall 8.5m height limit, and does not result in any unreasonable impacts on overshadowing, privacy, view loss or general amenity.

- Ensure that development responds to site topography and minimises excavation of the natural landform.

Comment: The proposal involves a significant amount of excavation to allow for basement car parking. However, as discussed in the Desired Future Character section of this report, this excavation allows the development to respond better to the topography by reducing the overall height and bulk of building visible above the ground surface. The building steps down the slope in response to the topography of the site, and in this way is generally consistent with this objective.

- Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.

Comment: The proposed development is generally well below the overall 8.5m height limit, and sufficient room remains for variation in roof design. The proposed roof form is raked, with a generally low pitch (not flat), and is considered to fit with the overall architectural style of the building.

NON-COMPLIANCE: Rear and side building setback (side setbacks)

Development is required to maintain minimum side building setbacks of 10m. Side setback areas are to be landscaped and free of any structures, carparking or site facilities other than driveways and fences. The proposed boarding house will be setback 6.415m – 15.4m on the north east side, and 6.0m – 9.15m on the south west side.

The objectives of the side setback requirements are to:

- Preserve the amenity of the surrounding land.

Comment: The proposal will generally maintain a reasonable level of amenity to surrounding land, as assessed throughout this report. The development will not unreasonably overshadow neighbours, nor create any unreasonable privacy impacts or view loss. This has been discussed in detail in the Desired Future Character and Public Exhibition sections of this report.

- Provide separation between buildings.

Comment: The proposed setbacks will maintain a significant separation between buildings. The neighbouring building to the south west will be a minimum of between 8m and 10m from the proposed building, and there is currently no building adjacent to the north east (although the proposed side setback on that side is larger than to the south west). This provides ample room for significant landscaping to contribute to amenity, and the spatial separation between buildings is considered to be adequate.

- Provide opportunities for landscaping.

Comment: The proposed side setbacks provide opportunities for landscaping. The proposal includes a comprehensive landscaping plan that will result in a substantial number of trees being planted on site, with many of the new and retained trees being concentrated along the side boundaries within the side setbacks.

- Create a sense of openness.

Comment: The proposed building is well articulated along both side elevations, and provides varied side setbacks and architectural features to break up the built form and help to create a sense of openness. The side setbacks provided, while below the minimum requirement, still enable significant landscaping and separation between buildings. A sense of openness is considered to be generally attained.

Clause 20(1) stipulates:

“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

General Principles of Development Control

The proposal is consistent with the General Principles of Development Control and accordingly, does qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

Desired Future Character of the Locality

The proposal is consistent with the Locality’s Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

Relevant State Environmental Planning Policies

The proposal has been assessed as being consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly, the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1). As detailed above, the proposed development satisfies the requirements to qualify for consideration under Clause 20(1). It is for this reason that the variation to the housing density, ceiling height, and side setbacks, (Development Standards) pursuant to Clause 20(1) is supported.

SECTION 3 – SITE INSPECTION ANALYSIS

Site constraints and other considerations	
Bushfire Prone?	No
Flood Prone?	No
Affected by Acid Sulphate Soils	No
Located within 40m of any natural watercourse?	Yes

Site constraints and other considerations	
Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?	No
Located within 100m of the mean high watermark?	No
Located within an area identified as a Wave Impact Zone?	No
Any items of heritage significance located upon it?	No
Located within the vicinity of any items of heritage significance?	No
Located within an area identified as potential land slip?	No
Is the development Integrated?	No
Does the development require concurrence?	Yes
Is the site owned or is the DA made by the "Crown"?	No
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	No

SITE INSPECTION / DESKTOP ASSESSMENT UNDERTAKEN BY:

Does the site inspection confirm the assessment undertaken against the relevant EPI's <Section's 1 & 2>?	Yes
Are there any additional matters that have arisen from your site inspection that would require any additional assessment to be undertaken?	No
Are there any existing unauthorised works on site?	No
If YES has the application been referred to compliance section for comments?	N/A

SECTION 4 – APPLICATION DETERMINATION

Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

- A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a Five (5) year time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2018/0401 for Construction of a Boarding house with 27 rooms including a managers residence on land at Lot 2597 DP 752038, 14 Wyatt Avenue, BELROSE, subject to the conditions printed below:
- B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Stormwater Drainage

This consent must not operate until the following deferred commencement conditions have been satisfied.

1. The flood report prepared by Northern Beaches Consulting Engineers dated 8 March 2018 shall be amended to include appropriate modelling, design and reporting sufficient to inform works required to manage overland flows. The flood report is to demonstrate that for the proposed works, there are no adverse effects on neighbouring lots (including the road reserve) relating to changes in flood levels, velocities or overland flow location, for the 1%, 5%, and 20% AEP events.

2. Plans of the proposed works shall be submitted to Council that demonstrate compliance with the requirements of Condition 1. These plans are to:

- a) Include concept plans demonstrating how drainage will be conveyed through the proposed stormwater drainage works and kerb and gutter for the full frontage of 14 Wyatt Avenue.
- b) Demonstrate that any stormwater runoff from the public road that will be captured by the proposed kerb and gutter, is conveyed through the site.
- c) Demonstrate compliance with Council's AUS-SPEC ONE specifications and Water Management Policy, Policy no. PL 850
- d) Delineate the overland flow path through the subject property
- e) Ensure trees are not planted within the stormwater easement

Details demonstrating compliance with the above are to be submitted to Council's satisfaction, prior to activation of the Development Consent, within twelve months of determination.

Reason: To ensure adequate provision is made for stormwater drainage in a proper manner that protects adjoining properties.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
02 Rev. H	August 2018	Platform Architects
03 Rev. H	August 2018	Platform Architects
04 Rev. H	August 2018	Platform Architects
05A Rev. H	August 2018	Platform Architects
05B Rev. H	August 2018	Platform Architects
06 Rev. H	August 2018	Platform Architects
07 Rev. H	August 2018	Platform Architects
08 Rev. H	August 2018	Platform Architects
09 Rev. H	August 2018	Platform Architects
10 Rev. H	August 2018	Platform Architects
11 Rev. H	August 2018	Platform Architects
Schedule of External Finishes Rev. B	March 2018	Platform Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Assessment (Response to Council Letter)	17 August 2018	The Acoustic Group
Arboricultural Report (Final Version)	March 2018	Axiom Arbor Tree Services

BASIX Certificate No. 953744M_02	20 August 2018	Efficient Living Pty Ltd
Carpark Certification of Proposed Boarding House (Version 1B)	February 2018	ML Traffic Engineers
Flood Risk Management Report (Final Report)	8 March 2018	NB Consulting Engineers
Geotechnical Investigation (J1616)	8 March 2018	White Geotechnical Group
Plan of Management Rev. A	8 March 2018	Northern Beaches Essential Services Accommodation
Section J Report - NCC 2016	March 2018	Efficient Living
Traffic and Parking Impact Assessment (Version 1A)	January 2018	ML Traffic Engineers
Waterways Impacts Statement (Final)	8 March 2018	NB Consulting Engineers

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
Sheet No. 1 of 3 Issue B	9 March 2018	Paul Scrivener Landscape Architect
Sheet No. 2 of 3 Issue C	9 March 2018	Paul Scrivener Landscape Architect
Sheet No. 3 of 3 Issue C	9 March 2018	Paul Scrivener Landscape Architect

Waste Management Plan		
Report No.	Dated	Prepared By
Waste Management Plan	February 2018	Platform Architects

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

3. **Approved Land Use**

Nothing in this consent shall authorise the use of site as detailed on the approved plans for any land use of the site beyond the definition of a Boarding House.

A Boarding house is defined as:

“boarding house:

(a) means any premises that:

(i) are wholly or partly let as a lodging for the purposes of providing the occupants with a principal place of residence, and

(ii) are used and occupied by at least 4 long term unrelated residents, and

(iii) include a communal living space used for eating and recreation, and

(iv) are not licensed to sell liquor, and

(b) does not include premises that have been subdivided or in which there is separate ownership of parts of the premises.”

(development is defined by the Warringah Local Environment Plan 2000 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

4. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

(i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

6. Policy Controls

Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$ 4,895,000.00		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$ 46,502.50
Section 7.12 Planning and Administration	0.05%	\$ 2,447.50
Total	1%	\$ 48,950.00

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council Contributions Plan 2018.

7. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

8. **Construction, Excavation and Associated Works Bond (Road)**

A Bond of \$20,000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works as part of this consent.

Reason: Protection of Council's Infrastructure

9. **Construction, Excavation and Associated Works Bond (Drainage)**

A Bond of \$25,000 as security against any damage or failure to complete the construction of Stormwater drainage works as part of this consent.

Reason: Protection of Council's Infrastructure

10. **Construction, Excavation and Associated Works Bond (Crossing / Kerb)**

A Bond of \$25,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent. Reason: Biodiversity/Vegetation Conservation and Management

Reason: Protection of Council's Infrastructure

11. **Construction, Excavation and Associated Works Bond (Maintenance for civil works)**

The developer/applicant must lodge with Council a Maintenance Bond of \$3,000 for the construction of footpath, driveway, kerb and gutter, road shoulder and associated stormwater drainage works within the public roadway. The Maintenance Bond will only be refunded on completion of the six month Maintenance Period, if work has been completed in accordance with the approved plans and to the satisfaction of Council. The maintenance bond is to be apid prior to Council issuing practical completion and may be exchanged for the works bond.

Reason: To ensure adequate protection of Council infrastructure

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

12. **Application for Infrastructure Works on Council Roadway**

Engineering plans are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The submission is to include four (4) copies of Civil Engineering plans for the design of the following (referred to as the "Works"):

- Construction of road shoulder and kerb and gutter along the full frontage of the site to provide for a 10 metre wide (kerb to kerb) road carriageway
- Construction of stormwater drainage pits and pipelines - pits must be constructed minimum 1 metre clear of the driveway layback
- Construction of 1.5 metre concrete footpath along the full frontage
- Construction of a 5.5 metre wide vehicle crossing
- Traffic Control Plan to be approved by Council's Transport Network Team

The Works are to be generally in accordance with the Development Application and Council's specification for engineering works – AUS-SPEC #1 and Council's Minor Works Specification.

The Fee Associated with the assessment and approval of the plans is to be in accordance with Council's Fees and Charges.

The developer/applicant must lodge with the Roads Authority the security bonds against any damage or failure to complete the construction of the Works as part of this consent is required.

The developer/applicant must lodge with the Roads Authority a Maintenance Bond for the construction of the Works. The Maintenance Bond will only be refunded on completion of the Maintenance Period, if work has been completed in accordance with the approved plans and to the satisfaction of the Roads Authority.

All bonds and fees shall be deposited with the Roads Authority prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Ensure engineering works are constructed in accordance with relevant standards.

13. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary ground anchors are to be used within Council land. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

14. Detailed Design of Stormwater Quality System

A certificate from a Civil Engineer, stating that the stormwater quality management system has been designed in accordance with the Stormwater Management Plans prepared by NB Consulting Engineers dated February 2018 Job No. 180203 and the Council's Water Management Policy.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

15. On Site Stormwater Detention Compliance Certificate

An On-site Stormwater Detention system must be designed and constructed in accordance with Council's current On-site Stormwater Detention Technical Specification, and generally in accordance with the concept drainage plans prepared by Northern Beaches Consulting Engineers, drawing number 180203, dated 20.02.2018.

The drainage plans must address the following:

- i. Stormwater discharge from the OSD tank is to be directed to a suitably designed stormwater dispersion system located at the north western corner of the site
- ii. Stormwater discharge is to be limited to the 1 in 5 year ARI, 0% fraction impervious stormwater runoff
- iii. Stormwater dispersion system is to be located minimum 3 metres from the downstream boundaries and is to be designed to ensure no scouring to downstream properties

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Detention Technical Specification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

16. Boarding House Plan of Management

Prior to the issue of any Construction Certificate a Plan of Management is to be prepared for the premises to the satisfaction of the Certifying Authority. The plan shall include detail to manage the requirements detailed as follows:

- 1) The maximum number of boarders and lodgers
 - a) The building is to contain a maximum of 54 (fifty-four) persons (not including children under the age of 5 years), being no more than 2 (two) persons per designated bedroom.
 - b) The occupier of premises must not allow any room or cubicle in the premises to be used for the purposes of sleeping accommodation unless the room or cubicle has a floor area of 5.5 square metres or more for each person sleeping in it (in the case of long-term sleeping accommodation) or 2 square metres or more for each person sleeping in it (in any other case)

Note The Public Health Regulation 2012 provides that long-term sleeping accommodation means accommodation that is provided to the same person for a period of more than 28 consecutive days

- 2) The requirements detailed within Schedule 2 Part 1, Clauses 2 – 7 under the Local Government (General) Regulation 2005

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the premises a maintained in an appropriate manner.

17. Structural adequacy

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

Reason: Structural adequacy (DACNECPCC1)

18. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

19. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

20. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water.

21. **Motorbike Parking**

8 (eight) motorbike parking spaces shall be provided within the site and be designed in compliance with Australian Standards AS2890.1:2004.

Reason: Ensuring compliance with development.

22. **Passing Bay**

The passing bay proposed next to the access driveway shall be extended to the kerb providing a 5.5m wide access driveway and 5.5m wide passing bay for the first 6m of the driveway from the property boundary.

The proposed passing bay on the northern side of the site shall be improved by extending the passing bay and provision of a convex mirror improving the inter-visibility between vehicles exiting the car park and vehicles turning onto the ramp leading to the car park.

Reason: prevent conflict between opposing vehicles.

23. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

24. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

25. **Tree protection**

- (a) Existing trees which must be retained
 - i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
 - ii) Trees located on adjoining land
- (b) Tree protection
 - i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
 - ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.

- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAD01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

26. Progress Certification (Road & Subdivision)

Written certification is to be provided by a suitably qualified engineer upon completion and/or as and when requested by the Principal Certifying Authority for the following stages of works.

- (a) Silt and sediment control facilities
- (b) Laying of stormwater pipes and construction of pits (c) Proof Roll - AUSPEC Standard
- (d) Sub-grade trimmed and compacted **
- (e) Base-course laid and compacted **
- (f) Kerb and gutter construction
- (g) Pavement
- (h) Landscaping and vegetation
- (i) Clean-up of site, and of adjoining Council roadway and drainage system. (**To be tested by a recognised N.A.T.A. approved laboratory). Details demonstrating compliance are to be submitted to the Principal Certifying Authority.
- (j) All layers of the road formation are to be proof rolled to Council's satisfaction

Reason: To ensure compliance of civil works with Council's specification for engineering works

27. Stormwater Connection

Where connection to Council's nearest stormwater drainage system is required, the applicant shall connect the pipeline in accordance with Council's specification for engineering works and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels. All works shall be undertaken at the applicant's cost, and upon completion certified by an appropriately qualified and practicing Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

28. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority

Reason: To ensure compliance of civil works with Council's specification for engineering works.

29. Notification of Inspections

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter
- (e) Subgrade level / basecourse level / subbase
- (f) Sealing road pavement

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification

Reason: To ensure new Council infrastructure is constructed to Council's requirements.

30. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

31. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

32. Compliance with the Boarding House Plan of Management

The requirements of the Boarding House Plan of Management required by this consent is to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

33. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all

protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAEO3)

34. Protection of rock and sites of significance

- a) All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.
- b) Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features (DACLAEOG1)

35. Aboriginal Heritage

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

36. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Sediment and Erosion Plan prepared by NB Consulting Engineers dated February 2018.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

37. Maintenance of Stormwater Quality System

The stormwater quality system must be maintained at all times in accordance with the Stormwater Quality Operation and Maintenance Plan, manufacturers specifications and as necessary to achieve the required stormwater quality targets for the development.

Reason: Protection of the receiving environment.

38. Stormwater Quality Operation and Maintenance Plan

An Operation and Maintenance Plan is to be prepared to ensure proposed stormwater quality system remain effective.

The Plan must contain the following:

- a) Maintenance schedule of all stormwater quality treatment devices
- b) Identification of maintenance and management responsibilities
- c) Maintenance requirements for establishment period
- d) Routine maintenance requirements
- e) Inspection and maintenance record and reporting
- f) Funding arrangements for the maintenance of all stormwater quality treatment devices
- g) Vegetation species list associated with each type of vegetated stormwater treatment device
- h) Waste management and disposal
- i) Traffic control measures (if required)
- j) Maintenance and emergency contact information
- k) Renewal, decommissioning and replacement timelines and activities of all stormwater quality treatment devices
- l) Work Health and Safety requirements

Details demonstrating compliance shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

39. Works as Executed Drawings - Stormwater Quality System

Works as Executed Drawings for the stormwater quality system must be prepared in accordance with Council's Guideline for Preparing Works as Executed Data for Council Stormwater Assets.

The drawings shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

40. Installation of Rainwater Tanks

Rainwater tanks shall comply with the following:

Be fitted with a first-flush device that causes initial rainwater run-off to bypass the tank and must drain to a landscaped area. The first flush device will not be permitted

to connect to the stormwater system
Have a sign affixed to the tank stating the contents is rainwater
Be constructed or installed in a manner that prevents mosquitoes breeding, such as the use of mesh to protect inlets and overflows
Have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners
Pumping equipment must be housed in a soundproof enclosure
Where the rainwater tank is interconnected to a reticulated water supply, it must be installed in accordance with Plumbing Code of Australia, particularly backflow/cross connection prevention requirements.

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate.

Reason: To conserve potable water.

41. Installation of Water Efficient Fittings

The following Water Efficiency Labelling and Standards (WELS) Scheme rated fittings must be installed:

- i. 4 star dual-flush toilets
- ii. 3 star showerheads
- iii. 4 star taps (for all taps other than bath outlets and garden taps)
- iv. 3 star urinals
- v. 3.5 star washing machines
- vi. 4 star dishwashers.

A certificate from a licenced plumber shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate demonstrating compliance with this condition.

Reason: To conserve potable water.

42. Authorisation of Legal Documentation Required for Onsite Detention and Overland Flowpath

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

43. On-Site Stormwater Detention Compliance Certification and Overland Flowpath

Upon completion of the on-site stormwater detention (OSD) system and overland flow channel/swale, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction.

44. Positive Covenant and Restriction as to User for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.

45. Creation of Positive Covenant and Restriction as a User

A restriction on the use of land and a positive covenant shall be created on the title of the land in respect of the installation and maintenance of on-site stormwater disposal structures. The detailed information for a restriction on the use of land and a positive covenant is shown in Northern Beaches Council's WARRINGAH WATER MANAGEMENT POLICY PL850. The terms of the positive covenant and a Restriction on the use of land are to be prepared to Council's standard requirements, at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard

46. Certification for the Installation of Stormwater Quality System

A certificate from a Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NER) shall be submitted to the Principal Certifying Authority prior to the release of the Occupation Certificate, stating that the stormwater quality management system has been installed in accordance with the Stormwater Management Plans prepared by NB Consulting Engineers dated February 2018 Job No. 180203 and Council's Water Management Policy.

The certificate shall be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment

47. Positive Covenant for Stormwater Quality System

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the stormwater quality system in accordance with the standard requirements of Council, the manufacturer and as required by the Stormwater Quality Operation and Maintenance Plan.

The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Council), at the applicant's expense and endorsed by the Northern Beaches Council's delegate prior to lodgement with the Department of Lands. The Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system

48. Registration of Encumbrances for Stormwater Quality System

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for stormwater quality system as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land

49. Restriction as to User for Stormwater Quality System

A restriction as to user shall be created on the title over the stormwater quality system, restricting any alteration to system. The terms of such restriction are to be prepared to Council's standard requirements, (available from Northern Beaches Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval

50. Restriction as to User - Overland flowpath

A restriction as to user shall be created on the title over the overland flowpath, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction, are to be prepared by a registered surveyor to Northern Beaches Council's standard requirements at the applicant's expense. Northern Beaches Council shall be nominated as a party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure no modification of the overland flowpath without Council's approval.

51. Boarding House Plan of Management

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the operator that the requirements of the Boarding House Plan of Management have been implemented and are compliant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

52. Noise

Prior to the issue of an Occupation Certificate a suitably qualified person shall certify that the acoustic treatments proposed in the development application, including the recommendations contained in the report by The Acoustic Group dated 17 August 2018 have been implemented and are compliant with the EPA Industrial Noise Policy.

Reason: To ensure noise to residents and neighbours complies with legislation.

53. Required Planting

Trees shall be planted in accordance with the following schedule:

Minimum No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on Landscape Plans Dwg Nos. 1B, 2C and 3C dated 09.03.2018 prepared by Paul Scrivener Landscape Architect	As indicated on the Landscape Plans	As indicated on the Landscape Plans

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

54. Post-Construction Dilapidation Survey - Stormwater and Road

A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The post construction dilapidation report must be submitted to the Council for review and the Principal Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's Infrastructure

55. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

56. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

57. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

58. Construction of footpath, kerb and gutter

Footpath, kerb and guttering shall be constructed at cost of the applicant from its boundary with No.16 Wyatt Avenue connecting to the existing footpath, kerb and guttering outside No.12 Wyatt Avenue. The footpath, kerb and guttering shall be consistent with the existing and to comply with the Council's development engineers requirements.

Reason: Connectivity of the site to the existing footpath.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

59. Landscape maintenance

- i) Trees shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilized as required at the time of planting.
- ii) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: To maintain local environmental amenity