

DEVELOPMENT ASSESSMENT REPORT

Application Number:	DA2021/1039
Responsible Officer:	Steven Layman (Planning Consultant)
Land to be developed (Address):	16 Wyatt Avenue, Belrose Lot 2566, Deposited Plan 752038
Proposed Development:	Demolition works and the construction of a boarding house development
Locality:	Warringah LEP 2000 – C8 Belrose North
Category:	Category 2
Referred to DDP:	No
Referral to NBLPP:	Yes
Land and Environment Court Action:	Yes
Owner:	Jennifer Mary Patricia Holman John Richard Holman
Applicant:	Northern Beaches Essential Services Accommodation Pty Ltd
Application Lodged:	12 July 2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential – New Multi-Unit
Notified:	16 July 2021 to 11 August 2021; and 17 January 2022 to 31 January 2022 13 July 2022 to 27 July 2022
Advertised:	16 July 2021 and 17 January 2022
Submissions Received:	95
Recommendation:	Refusal
Estimated Cost of Works:	\$7,700,000.00

EXECUTIVE SUMMARY

On 12 July 2021, DA2021/1037 (the subject of this Assessment Report) was lodged with Council seeking consent for a 62 room boarding house development, across two (2) buildings.

On 17 March 2022, the Applicant filed a Class 1 Appeal on the deemed refusal of DA2021/1037. This Assessment Report has been prepared based on the amended plans and supporting information provided as part of the Class 1 Appeal, which seeks consent for a 55 room boarding house development across two (2) buildings.

The DA was advertised and notified in accordance with the EPA Regulation 2000, and the Northern Beaches Community Participation Plan and a total of 95 submissions were received. The concerns raised in the submissions have been considered and addressed as part of this assessment.

The DA is recommended for refusal for the reasons detailed in this Assessment Report, relating to:

- The lower building's exceedance of the maximum 8.5 metre building height development standard of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000.
- Non-compliance with the maximum ceiling height built form control of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000.
- Non-compliance with the front setback control of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000, with the encroachment of the bin storage room.
- The inconsistency of the development with the Desired Future Character of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000.
- The proximity of the lower building and the bin storage room within the rear portion of the site not providing an adequate landscape transition to the bushland.
- The extent of earthworks required across the site, particularly to facilitate the proposed aboveground on-site detention basin significantly alters the existing landform of the site, which diminishes the transition of the built form with the adjoining bushland to the north.
- Non-compliance with the rear setback at Clause 63A (Rear building setback) of the Warringah Local Environmental Plan 2000. The bin storage room for the lower building encroaches into the required 10 metre rear building setback.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the *Environmental Planning and Assessment Act 1979* and the associated Regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant environmental planning instrument;
- 95 submissions were received in response to the exhibition of the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Agencies on the proposal.

LOCALITY PLAN (not to scale)



SITE DESCRIPTION

The site is legally identified as Lot 2566 in Deposited Plan 752038 and is known as 16 Wyatt Avenue, Belrose.

The site is 'L' shaped with a frontage to Wyatt Avenue to the south of 28.74m, a maximum depth of 211.8m and a rear boundary of 59.94m to adjoining bushland. The site has an overall area of 9,345m².

The site presently accommodates a two storey detached dwelling house with swimming pool, stables, equestrian facilities and an informal helicopter landing pad.

The site currently has 47 (forty seven) trees (inclusive of those located on or immediately near to any boundary). The site has a 3-4m tall *cupressus leylandii* hedge along the front boundary.

Topographically the site falls from levels of around RL183 at its southern boundary to between RL167-RL170 or thereabouts around the area of the northernmost extent of the rear building – a fall of around 13m-16m over a distance of around 143 metres. The natural contours of the site have been modified by improvements associated with the existing dwelling house and ancillary development. The north-western corner of the site slopes steeply towards Fireclay Gully and accommodates several large rock outcrops / boulders.

The area in which the development is proposed, is a bush fire prone area under the Northern Beaches Bush Fire Prone Land Map (7th of August 2020).

The site is located on the north-western side of Wyatt Avenue, approximately 380 metres to the south-west of Forest Way and on the northern fringe of the suburb of Belrose (see Figure 2 below). The land to the north of Wyatt Avenue has the general character of a rural-residential area and includes substantial one and two storey residences on large lots, the John Colet School and bushland.

East and west of the site there are currently other large lot residential properties that also fall within the Deferred Lands. The property to the immediate east is 14 Wyatt Avenue upon which there is an approval for a 25 room boarding house pursuant to Land and Environment Court proceedings *Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185*. It is intended to rely on the driveway approved for 14 Wyatt Avenue to serve the proposed northernmost/rear boarding house building.

SITE HISTORY

The subject site has been used for residential purposes for an extended prior of time, with the last relevant DA being in 2003 for additions to a balcony. In 2015 a Tree Application was approved for the removal of three (3) trees, along the front boundary and within the front setback of the property.

Immediately adjoining the site to the south-east is 14 Wyatt Avenue, Belrose. This site has recently been the subject of a Class 1 Appeal which was upheld to approve DA2018/0401 on 20 January 2021, for the erection of a part two and part three storey boarding house comprising 25 boarding rooms (including one (1) manager's residence),

a single level basement comprising 12 car parking spaces, 8 motorcycle spaces and 11 bicycle parking spaces (*Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185*).

On 6 January 2022, a Section 4.56 modification application to DA2018/0401 was lodged with Council seeking consent for the following amendments:

- Installation of 'cooktops' within each individual boarding room.
- A reduction to the number of car parking spaces by one (1) space; to facilitate the provision of two (2) disabled car parking spaces in the basement; to provide a total of 12 car parking spaces.
- Widening of driveway by up to 400mm in three (3) locations to facilitate access for emergency vehicles.
- Addition of hydrant and sprinkler boosters adjacent to the driveway.
- Addition of a gas bottle filler to the north of the basement.
- Internal adjustments to ensure compliance with the National Construction Code (NCC).

Since the lodgement of the modification application, a Class 1 Appeal has been filed and the plans have been amended to remove the cooktops from individual boarding rooms. This modification application has been referred to the NBLPP, concurrent with this DA, for determination.

PROPOSED DEVELOPMENT

Development consent is sought for the demolition of all existing improvements on the site, tree removal, excavation works and the construction of two boarding houses, collectively accommodating 55 dual-occupancy rooms with parking for 34 cars, 13 motorcycles and 55 bicycles.

More specifically:

Upper boarding house building

The upper boarding house addresses Wyatt Avenue and is of an architecture very similar to the approved building at no. 14 Wyatt Avenue. This building necessitates excavation to a maximum depth of 5.4m below existing ground level. A new crossing and driveway run down the eastern edge of the site before looping to the basement entry at the northern edge of the building. The building can generally be described as rectangular, part-two / part-three storeys and broken into three distinct pavilions. This building accommodates a total of 22 boarding rooms, one manager's room, two (2) common rooms, 11 car spaces, 5 motorcycle spaces and 23 bicycle spaces.

Herein this report this building is referred to as the **upper building**.

Lower boarding house building

The lower boarding house is situated towards the rear of the site, with vehicular access being reliant on the approved driveway on 14 Wyatt Avenue, Belrose. Access to the basement is gained via the northern elevation. The lower building is generally two storeys only. This building accommodates 32 boarding rooms, four (4) common rooms, 19 car

spaces, four (4) at-grade visitor car spaces along the western side of the access driveway, 8 motorcycle spaces and 32 bicycle spaces.

Herein this report this building is referred to as the **lower building**.

None of the individual boarding rooms include cooking facilities, and all meal preparation and cooking is to occur in the common rooms.

Overall, the development comprises of 55 rooms (2 x single and 53 x double) capable of accommodating 108 lodgers (inclusive of the manager's residence) at any one time.

A bin storage room is provided to service each building, as follows:

- The bin room for the upper building is located within the front setback area; 3 metres from site boundary fronting Wyatt Avenue. The bin store room maintains a side setback from the western property boundary of 3 metres. The bin room also includes an area for bulky goods storage.
- The bin store room for the lower building is located within the rear building setback area, to the west of the heavy vehicle turning bay. The bin store room includes an area for bulky goods storage.

AMENDMENTS TO THE SUBJECT APPLICATION

On 15 November 2021 Council wrote to the Applicant advising that the development application could not be supported in its current form due to the extent of impact caused by 62 (sixty-two) boarding rooms, impact on the natural landform consequent of excavation, and an unacceptable quality of accommodation for future residents. The following internal sections of Council also raised concern with the proposal:

- a. NECC – Development Engineering
- b. Environmental Health (Unsewered Lands)
- c. Landscape Officer
- d. Design and Sustainability Advisory Panel
- e. Traffic Engineering
- f. Waste Officer

On 20 December 2021 Council received revised plans which included the following modifications:

- a. *“Change the entrance driveway to the Lower (Northern) building so that vehicular access is provided through the driveway at 14 Wyatt Avenue. This will delete the vehicular access ramp to the lower portion of the site.*
- b. *Decrease the number of rooms from 62 (including managers room) to 55 (including managers room).*
- c. *Increase the space available for common cooking facilities.*
- d. *Amend the Waste Management Plan to state that all operational waste will be removed by a private contractor.*
- e. *Show outside clothes lines for both boarding houses.*

- f. *Provide some extra parking (on grade) for the Lower (Northern) boarding house.*
 - g. *Amend Landscape Plan.*
 - h. *Add more communal rooms and a communal terrace.*
 - i. *Reconfigure design to eliminate any situations where privacy and amenity of rooms is compromised by the driveway.*
 - j. Bulky goods storage now provided.
 - k. *Extra motorcycle spaces have been added.*
- [italics where extracted]

On 17 March 2022 Council was notified that the Class 1 appeal was filed with the Land and Environment Court of New South Wales against Council's deemed refusal of the development application.

On 28 June 2022 the Applicant was granted leave to rely on amended plans and supporting documentation providing the following:

- a. Updated Site Analysis Plan to conform with Clause 22, Schedule 8 of the WLEP 2000.
- b. Amendment to the turning bay at the northern end of the lower driveway to ensure compliance for a Council Garbage Truck, a fire truck and an HRV.
- c. Relocation of the bin storage room from within the basement of the lower building to adjacent to the truck turning area.
- d. Removal of 1 x parking bay in the lower building basement to allow for 2 x accessible parking spaces.
- e. Reduction in excavation to the lower building basement where the garbage room used to be.
- f. Addition of an accessible bathroom in the lower building basement.
- g. Amendment to the Ground Floor and First floor northern common area access. The hallways have been modified to ensure accessibility to the two common areas and common area terraces.
- h. Accessible rooms in the Upper building have been amended to ensure no more than two accessible rooms are adjacent to one another.
- i. Accessible rooms in the upper building have been amended to ensure double beds with required circulation are accommodated in each room.
- j. Northwest elevation of the Upper Building has been updated to provide further information regarding the rocky outcrop and the proposed building and driveway in relation to the existing pool structure.
- k. Southeast elevation of turning bay, ramp and bin room added with further detail to confirm relationship to natural ground.

On 7 July 2022 the Applicant was granted leave to rely on an amended Arborist Report and Site Contamination Assessment; prepared to reflect the plans provided in the 28 June 2022 document bundle.

This Assessment Report has been prepared based on the latest plans and documents which the Court granted leave to rely on.

STATUTORY CONTROLS

- *Environmental Planning and Assessment Act 1979* (EPA Act 1979);
- *Environmental Planning and Assessment Regulation 2000*;
- *State Environmental Planning Policy No 55 - Remediation of Land*;
- *State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007*; and
- *Warringah Local Environmental Plan 2000*.

PUBLIC EXHIBITION

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, and the Northern Beaches Community Participation Plan.

The subject application was notified twice from 16 July 2021 to 11 August 2021 and again from 17 January 2022 to 31 January 2022. As a result of the public exhibition, 86 submissions were received, all except for one submission being in objection. The concerns raised are summarised as follows:

Concern	Response
<i>Applicability of SEPP ARH in the Deferred Lands</i>	SEPP ARH does not apply to the land; boarding houses are a Category 2 Land Use and are permitted in the C8 Belrose North locality.
<i>Compliance with the desired future character</i>	The proposal is not consistent with the desired future character described in the C8 Locality Statement contrary to clause 12(3)(b) of WLEP 2000 and does not comply with development standards for the locality contrary to clause 12(2) of WLEP 2000. Further discussion on these matters can be found later in this report.
<i>Building height and setbacks</i>	<p>The C8 Locality Belrose North Locality Statement provides that <i>'The minimum front building setback to all roads is 20 metres...the minimum front building setback area is to be densely landscaped using locally occurring species of canopy trees and shrubs and be free of any structures, carparking or site facilities other than driveways, letterboxes and fences.'</i></p> <p>The proposed southern building meets the numerical standard of 20 metres, however the proposal includes a significant building within that front setback for the purposes of waste holding and bulk store. In this respect, the proposal is inconsistent with the</p>

	<p>requirements of the locality statement and does not comply with cl.70 of WLEP 2000, which provides: <i>'Site facilities including garbage and recycling bin enclosures ... are to have minimal visual impact from public places.'</i></p> <p>The WLEP 2000 C8 Locality Belrose North Locality Statement provides that the minimum side building setback is 10 metres and the rear and side setback areas are to be landscaped and free of any structures, carparking or site facilities other than driveways and fences. The proposed southern building does not comply with the required setbacks on either the west or east side:</p> <ul style="list-style-type: none"> • On the east side the building setback is 9.25 metres. • On the west side the building setback is 6.06 metres. <p>The non-compliance with the side setback requirements detrimentally affects the ability of the proposal to protect or enhance the natural landscape.</p> <p>The area that is provided as side setback is compromised in terms of its capacity to provide an appropriate landscape setting to offset the significant scale and bulk of built form proposed having regard to:</p> <ul style="list-style-type: none"> • the necessity to maintain the site as an inner protection zone, which precludes achievement of significant, linked tree canopy to soften and screen development; • the fact that the northward slope of the site necessitates a particularly intrusive and inefficient driveway arrangement wherein the driveway runs the full length of the southern building, occupying space that could otherwise be used for landscaping.
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	<ul style="list-style-type: none"> the remaining space available to the east of the driveway is further impacted by the required pathway to the rear, northern building. <p>Although the northern building complies with the side setback requirements, the same inefficiency in site design places the driveway in such close proximity to the eastern boundary as to preclude effective landscaping.</p> <p>The lower building includes an exceedance of the maximum 8.5 metre building height, which is not supported. No justification for this variation has been provided.</p>
<i>Construction impacts – noise, traffic, parking and dust</i>	Construction impacts could be managed through standard conditions of consent, however, the application is recommended for refusal.
<i>Availability of infrastructure – parking and sewage</i>	<p>The development proposal has been reviewed by Council's Traffic and Development Engineers and the proposed parking provision is considered acceptable.</p> <p>A Sydney Water Feasibility Study has been provided which demonstrates sewage will be able to enter the Sydney Water sewer via a pump-to-sewer connection. Sydney Water have also raised no objection to the proposal.</p>
<i>Land clearing, landscaping and impacts of biodiversity</i>	Council's Biodiversity and Landscape Officers have reviewed the proposal and noted the proposed removal of trees. The removal of these trees is supported, subject to replacement planting enforced through recommended conditions of consent.
<i>Stormwater and flooding</i>	Council's Development Engineer has reviewed the proposal having regard to stormwater and flooding and support the proposal, subject to recommended conditions of consent.
<i>Increased bushfire risk</i>	The application is supported by NSW Rural Fire Service General Terms of Approval (GTAs).

The DA was subsequently amended as part of the Class 1 Appeal proceedings, with the Court granting the Applicant leave to rely on the amended plans and documentation. The amended DA was re-exhibited from 13 July 2022 to 27 July 2022.

As a result of this public exhibition period Council received nine (9) submissions objecting to the modification application. The submissions reiterated concerns that were previously raised as part of the original notification period.

REFERRALS

External Referrals

External Referral Body	Comments
Ausgrid	<p><i>Supported, no conditions</i></p> <p>The proposal was referred to Ausgrid who raised no objections to the proposal and recommended no conditions.</p>
NSW Rural Fire Service	<p><i>Supported, subject to conditions</i></p> <p>The proposal was referred to the NSW Rural Fire Service who have recommended conditions of consent in relation to Asset Protection Zones, requiring the entire property to be managed as an inner protection area (IPA), construction standards, property access, water and utility services and landscaping.</p>
Sydney Water	<p><i>Supported, no conditions</i></p> <p>The proposal was referred to Sydney Water who advised the following:</p> <p>Potable water servicing should be available via a watermain on Wyatt Avenue, however, amplifications, adjustments and/or minor extensions may be required.</p> <p>Wastewater servicing is currently unavailable to this property and extensions of Sydney Water assets will be required to service the property. Normal gravity sewer connection will not be possible and the development will need to pump sewer.</p> <p>Since there are now three (3) developments on the northern side of Wyatt Avenue, all of which need to pump sewer, it is suggested that the Water Servicing Coordinators work together with the Proponents to co-ordinate the design and construction of a low pressure sewer, designed to supply any future developments on the northern side of Wyatt Avenue.</p>
Aboriginal Heritage Office	<p><i>Supported, subject to conditions</i></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>Under the <i>National Parks and Wildlife Act 1974</i> (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>
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Internal Referrals

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>Not supported</p> <p>The Design and Sustainability Advisory Panel do not support the proposal for the following reasons:</p> <p><i>The Panel does not support the proposal and advises that the degree of impacts on the landscape including landforms and vegetation is not consistent with the objectives of the locality.</i></p> <p><i>It is the Panel's view that no structure should be located on the lower part of the site as requirements for vehicular access to that part of the site would have an unacceptable impact on the natural features of the site.</i></p> <p><i>The Panel advises that this is not related to the building typology that would be permissible, but to the impacts due to the site's topography existing vegetation, natural features and context.</i></p> <p><i>The overall site masterplan and site layout must demonstrate a solid understanding of how the site's unique assets including trees, vegetation, fauna, topography have been addressed and incorporated into the planning.</i></p> <p><i>In other words, it is the values and characteristics of the site that should determine the eventual quantum of floor space and arrangement of built form.</i></p> <p><i>The overall site master plan requires extensive redesign and needs to demonstrate how the project responds and accommodates people who will reside, visit and work on the site and how the site design responds to the site's unique landscape and topography.</i></p>

	<p><i>The Panel also notes the inadequacy of the kitchen arrangements, that appear to be solely focused on circumventing the density controls, and the poor social outcomes that will result.</i></p> <p><i>The Panel recommends that the applicant prepare an alternative scheme which minimises impact on the site's landform and takes all above recommendations into consideration supported by a thorough site analysis and analyses of similar accommodation to show how food preparation and common areas will function.</i></p>
Environmental Health (Contaminated Lands)	<p><i>Supported, no conditions</i></p> <p>There is no evidence of past or present site contamination on this property, therefore no contaminated land conditions are required.</p>
Environmental Health (Industrial)	<p><i>Supported, subject to conditions</i></p> <p>An Acoustic Report has been provided, which, in conjunction with conditions of consent, is considered adequate.</p>
Environmental Health (unsewered lands)	<p><i>Supported, subject to condition</i></p> <p>A Sydney Water Feasibility Study has been provided which demonstrates sewage will be able to enter the Sydney Water sewer via a pump-to-sewer connection. A condition requiring a Section 68 Approval under the <i>Local Government Act 1993</i> is recommended.</p>
Landscape Officer	<p><i>Supported, subject to conditions</i></p>
NECC (Biodiversity)	<p><i>Supported, subject to conditions</i></p> <p>The submitted Landscape Plan and Bushfire Assessment are supported, subject to conditions relating to replacement tree species and delineation of APZ.</p>
NECC (Riparian Lands)	<p><i>Supported, no conditions</i></p> <p>There are no watercourses or riparian buffer on the property.</p>
NECC (Water Management)	<p><i>Supported, subject to conditions</i></p> <p>The proposed stormwater treatment design is supported. Conditions of consent relating to erosion and sediment control measures and stormwater quality are recommended.</p>
Building	<p><i>Supported, subject to condition</i></p> <p>A condition relating to fire safety has been recommended.</p>
Development Engineer	<p><i>Supported, subject to conditions</i></p>

Traffic Engineer	<i>Supported, subject to conditions</i>
Roads and Assets	<p><i>Not supported</i></p> <p>The development shall be required to provide kerb and guttering, drainage, footpath connections and bus shelters at the bus stops in Contentin Road (numbers 39 and opposite 43). This requirement is to be included in Development Engineer's conditions for a Road Act approval under section 138.</p> <p>It is acknowledged that these requirements have been addressed in the recommended engineering and traffic conditions.</p>
Waste Officer	<i>Supported, subject to conditions</i>

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on “Draft Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	A Development Control Plan does not apply to the site.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<ul style="list-style-type: none"> • The EPA Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter can be addressed via a condition of consent. • Clause 92 of the EPA Regulation 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter can be addressed via a condition of consent. • Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of

Section 4.15 Matters for Consideration	Comments
	<p>development. This matter can be addressed via a condition of consent.</p> <ul style="list-style-type: none"> • Clause 54 and 109 of the EPA Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The site is not considered suitable for the proposed development as the existing established bushland setting of the site will not be retained as part of the proposed development.</p> <p>The site is not of dimensions that can facilitate compliance of the development with the required minimum front, side and rear building setbacks.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	Submissions received have been considered and addressed in this Assessment Report.
Section 4.15 (1) (e) – the public interest	The proposed development is not in the public interest, because the proposal is not consistent with the Desired Future Character for the locality and will have an adverse impact on the streetscape, owing to the dominance of the built form over landscaping and the inability of the development to retain the existing established bushland setting of the site.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs) – As Applicable

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 (1)(a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for an extended period of time with no prior land uses. In this regard Council's Environmental Health Contaminated Lands team 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.

State Environmental Planning Policy - Infrastructure

Ausgrid

Clause 45 of the SEPP Infrastructure 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 30 metres of a structure supporting an overhead electricity transmission line and/or within 5 metres of an overhead electricity power line.

Comment

Ausgrid has raised no objections to the development but notes that the developer should have regard to the proximity of the development to existing electrical network assets, including overhead powerlines.

Local Environment Plans (LEPs)

Warringah Local Environmental Plan 2011 (WLEP 2011)

The C8 Belrose North locality (which covers the land subject to this Application) under the WLEP 2000 was proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah's standard instrument. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011, the Minister for Planning, Industry and Environment deferred land in the Oxford Falls Valley and Belrose North areas from the Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

Warringah Local Environment Plan 2000 (WLEP 2000)

Desired Future Character (DFC)

Locality:	C8 Belrose North
Development Definition:	<i>Boarding house</i> <i>(a) means any premises that—</i>

	<p>(i) are wholly or partly let as a lodging for the purposes of providing the occupants with a principal place of residence, and</p> <p>(ii) are used and occupied by at least 4 long term unrelated residents, and</p> <p>(iii) include a communal living space used for eating and recreation, and</p> <p>(iv) are not licensed to sell liquor, and</p> <p>(b) does not include premises that have been subdivided or in which there is separate ownership of parts of the premises.</p>
Category of Development:	Category 2

Desired Future Character Statement:

“The present character of the Belrose North locality will remain unchanged except in circumstances specifically addressed as follows.

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.

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

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

Development in the locality will not create siltation or pollution of Middle Harbour.”

Clause 12(3)(a) of WLEP 2000 requires the consent authority to be satisfied that the proposed development is consistent with the Locality’s DFC statement.

Accordingly, an assessment of consistency of the proposed development against the locality’s DFC is provided hereunder:

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

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 proposal does not protect the natural landscape. It introduces two large scale buildings, having significant building bulk, requiring significant tree removal and involving

significant disturbance and excavation of the topography. The waste management system relies on the inclusion of a building for holding purposes within the front setback, contrary to the front setback standards under the C8 Belrose North Locality statement. Combined with the hardscape proposed, the built form presents as monolithic and relentless incorporating two buildings of 50 metre to 60 metre length with repetitive fenestration and façade treatment and a dominant driveway hard-scape.

Further, the proposal adopts an architecture similar to that approved on 14 Wyatt Avenue and relies on the driveway of that development to provide vehicular access to the northern building. Realistically, the two developments will read as one development, comprising three large buildings and at total of 80 boarding rooms and a maximum 160 residents, and they will operate interdependently having regard to the shared use of no. 14's driveway to provide access to the northern building.

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

As the proposal is not a conventional detached dwelling house, the development is required to conform as a "low intensity, low impact" use as described in the Land and Environment Court judgement *Vigor Master Pty Ltd v Warringah Shire Council [2008] NSWLEC 1128*. The following definition was provided in that judgement:

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.

Low Intensity Assessment

The 55 room/108 boarder proposal presents an intensity of housing land use that is inconsistent with the large lot rural and low-density character of land immediately surrounding the site, or even the suburban residential character of land to the south of Wyatt Avenue where, for comparison, the maximum size of boarding house permitted (under SEPP ARH or SEPP Housing) would comprise 12 boarding rooms. A 55 room boarding house would ordinarily be considered a 'large' boarding house and one more associated with locations within or adjacent to Business Centres offering a wide range of shops, restaurants/cafes, entertainment, health and other services as well as transport options to support the physical and social wellbeing of the future residents.

For comparative purposes, were it not for the exclusion of cooking facilities within the proposed boarding rooms, the density control under WLEP 2000 would apply, with the number of boarding rooms being far in excess of the density envisaged for the C8 Belrose North locality.

With 53 rooms all able to accommodate two boarders and two (2) single rooms, a total of 108 boarders, the proposal is over four times the intensity of use of the maximum scale of boarding house development permitted on the R2 zoned land opposite and over double the intensity of use of the approved boarding house on 14 Wyatt Avenue.

Indicative of the inappropriateness of the intensity of land use proposed, the Acoustic Report requires solid 1.8 metre high barriers to be placed around the communal outdoor areas as well as assumptions as to the maximum number of persons using the outdoor areas, maximum hours limiting use of these areas as well as the closure of windows overnight and in the early morning. The proposal is not a low intensity/low impact use, and the proposed physical devices and management regimes to ameliorate anticipated amenity impacts are themselves uncharacteristic of the locality.

The site is not included in Council's Housing Strategy for any intensification of land use. The Strategy explores a 'low-rise housing diversity area' centred on the current Belrose local centre, and 'seniors and boarding houses within 400m of centres.' The site is remote in its relationship to established shops and services, being approximately 740 metres from the nearest local centre – this centre only offering a limited range of shops/outlets.

The site is located within a future MRA [Metropolitan Rural Area] investigation area as identified in the Northern Beaches Local Strategic Planning Statement, March 2020, which states, in this regard:

Under the North District Plan, further urban development is not consistent with the values of the MRA – this constitutes a clear State-level direction to avoid housing growth in these areas. Parts of Oxford Falls (south), Cromer Heights (west) and Belrose North, are not currently identified as part of the MRA in the Greater Sydney Region Plan but share many of its traits and characteristics. Council has identified this land area as 'Future MRA investigation area', and will work with the Greater Sydney Commission to assess its suitability for inclusion in the MRA when the Greater Sydney Region Plan is reviewed. Using the precautionary principle, Council will apply the principles and actions in this priority to these lands until that review is complete.'

Low Impact Assessment

The particular circumstances of this site, including the narrow width of the frontage, the northward slope down from the point of vehicular access on Wyatt Avenue, bushfire management and flooding/drainage management constraints as well as the proposed configuration of built form impose significant inefficiencies in site utilisation necessitating design solutions which impact significantly on the natural features of the site, and the capacity to respond successfully to the existing and future character of the locality.

The proposal does not comply with the front and side setback standards of the WLEP 2000 C8 Locality Belrose North, as well as a minor variation to building height, with the side setbacks dominated, in places, by the hardscape of driveways and footpaths. This, in conjunction with the RFS requirements for bushfire protection, preclude the achievement of a significant landscape setting to mitigate the significant bulk of built form proposed.

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

This outcome is not applicable as the development is not located on Forest Way and does not propose any new fencing.

Development in the locality will not create siltation or pollution of Middle Harbour.

Comment

An application could be appropriately conditioned to ensure that it would not create siltation or pollution in Middle Harbour.

Built Form Controls

The following table outlines compliance with the Built form Control of the above locality statement:

Built Form Compliance Table C8 Belrose North Locality Statement				
CONTROL		REQUIREMENT	PROPOSED	COMPLIANCE
Housing Density		1 dwelling per 20ha of site area	Nil* refer to discussion below	N/A
Building Height	Ridge	8.5m	Upper building <8.5m Lower building 8.7m (ridge exceedance)	Yes No – no justification has been provided for this variation from the control
	Ceiling	7.2m	> 7.2m but < 8.5m	No
Front Setback		20m	Boarding House:20m Bin room: 3m	Yes No (but required by Council's Waste Officer)
Side Setback (east)		10m	Min. 9.25m	No
Side Setback (west)		10m	Min. 6.06m	No
Rear Setback		10m	43.08m	Yes
Rear Setback Area		Free except fence and driveway	The bin storage room encroaches on the rear setback area.	No

Built Form Compliance Table C8 Belrose North Locality Statement			
Bushland setting	50% (4,671m ²)	64% (5,980m ²)	Yes

*The applicability of the Housing Density standard was considered in detail in [39] to [46] of the LEC judgement Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185.

The proposed development largely follows the same principles of that approved development, and therefore the relevant extracts of the court judgement are below:

Does the housing density standard apply to the DA?

39. The two provisions of the housing density standard indicate an intention that it relates to detached style “housing” with a density measured by reference to the number of “dwelling(s)”. The question, therefore, arises as to whether a boarding house in the configuration of that proposed in the DA is relevantly housing or a dwelling such that the limit has application to the DA.

40. The definitions of these terms in the WLEP provide:

Housing means development involving the creation of one or more dwellings whether or not used as a group home.

Dwelling means a room or a suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

41 The proposed boarding house is incapable of being characterised as a group home as the definition of that use is not reflective of the boarding house proposed both in the number of rooms, the nature of occupants and occupancy.

42 The characterisation then turns on whether the boarding house proposed in the DA comprises one or more dwellings. The concept of a dwelling has been the subject of considerable debate over many years. As a general proposition a dwelling must contain the essential components of a domicile for the exclusive use of the occupant, being: sleeping; bathroom and cooking facilities. Each development will be required to be considered on its own facts to determine whether it meets such requirements. In this case, each of the boarding rooms contain sleeping and bathroom facilities for the exclusive use of the occupant. However, none of the boarding rooms, nor the manager’s room, provide facilities that would permit even the most basic cooking facilities required to permit the rooms to operate as a domicile or dwelling.

43 The DA proposes that no room will have a sink, bench, food storage or preparation areas that would permit basic cooking. Further, the DA proposes that the occupants of the rooms will be the subject of a Plan of Management that will bind the occupants of the rooms. That Plan of Management further provides:

2.1 Bedroom

...

All food preparation and cooking is to be done in the communal kitchen or common areas which have cooking facilities. No food preparation or cooking is to be done in rooms.

...

2.4 House Rules

...

c) Lodgers must carry out all food preparation and cooking in the communal kitchen.

...

44 The terms of the proposed conditions of development consent require compliance with the Plan of Management by its incorporation into the documents referred to in condition 1.

45 The proposed conditions of development consent also expressly acknowledge the physical limitations of the proposed boarding house by requiring compliance with condition 2 that specifies:

Approved Land Use

a) 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.

b) In order that each of the boarding rooms and the manager's residence are not capable of being used as separate self-contained dwellings, each of the boarding rooms and the manager's residence must not contain, or at any time have installed, any cooking or meal preparation facilities. This includes plug-in electrical appliances. All meals must be prepared in the communal kitchens provided separately within the premises.

46 With the physical limitations of the boarding house rooms the rooms have not been designed to be used as a dwelling. With the proposed conditions of development consent the rooms will not be able to be altered to be so without the grant of a further approval. For those reasons, the boarding house does not comprise a dwelling or dwellings.

47 As the proposed DA does not comprise housing or a dwelling the housing density requirements of the Locality Statement or the development standards in the C8 Locality do not apply to the DA.

In this instance it is considered that the same position as that described above is reached. None of the proposed boarding rooms are capable of being used as a dwelling by virtue of no private kitchens. Occupants are reliant on several communal kitchens interspersed throughout the building.

On that short basis (without repeating what is detailed in the judgement) it is found that the proposed DA does not comprise housing or a dwelling and therefore the housing density requirements do not apply.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies Y/N	Comments	Complies Y/N
CL38 Glare & reflections	Y	The building is not anticipated to result in any unreasonable glare and reflection. Notwithstanding this, a condition can be recommended restricting the roof of the development to a medium to dark range colour.	Y
CL42 Construction Sites	Y	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 can be addressed by way of condition.	Y
CL43 Noise	Y	The DA has been accompanied by an Acoustic Report which has been assessed and considered adequate, subject to conditions.	Y
CL44 Pollutants	Y	The development for the purpose of a boarding house is not anticipated to result in the emission of pollutants that would unreasonably diminish the amenity of adjacent properties, the locality, or waterways.	Y

General Principles	Applies Y/N	Comments	Complies Y/N
CL47 Flood Affected Land	Y	Council's Development Engineer has assessed the proposal and the stormwater design is considered suitable, having regard to flooding.	Y
CL48 Potentially Contaminated Land	Y	The site has been assessed by Council's Environmental Health Officer who advised that the site does not comprise potentially contaminated land, given historic land use. A Contamination Report has also been provided by the Applicant which reaches the same conclusion.	Y
CL49 Remediation of Contaminated Land	N	N/A – no land remediation is required to facilitate the proposed development.	N/A
CL49a Acid Sulfate Soils	N	The site is not identified as being subject to Acid Sulphate Soils.	N/A
CL50 Safety & Security	Y	The proposal is designed in a manner which will provide an acceptable degree of safety and security to future occupants and neighbouring properties. Further details of security measures (CCTV etc.) are resolved at a Construction Certificate phase, not DA.	Y
CL51 Front Fences and Walls	N	The architectural plans do not detail any proposed front fence or wall.	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	Y	The site is proximate but not adjoining to the Garigal National Park to the north. The two properties to the north are vacant bushland. The proximity of the lower building and the bin storage room within the rear portion of the site does not provide an adequate landscape transition to the bushland.	N
CL54 Provision and Location of Utility Services	Y	The provision of utility services could be addressed through standard conditions of consent.	Y
CL56 Retaining Unique Environmental Features on Site	Y	The extent of earthworks required across the site, particularly to facilitate the proposed aboveground on-site detention basin significantly alters the existing landform of the site. There is an existing rock outcrop in proximity to the proposed	N

General Principles	Applies Y/N	Comments	Complies Y/N
		<p>basin and insufficient information has been provided to determine the likely impacts of the construction and use of the on-site detention basin on this feature.</p> <p>The location of the basin and proposed bin storage room within the rear portion of the site also limits the ability to plant vegetation in these areas, to lessen the transition of the built form with the adjoining bushland to the north.</p>	
CL57 Development on Sloping Land	Y	The DA has been supported by a Geotechnical Investigation.	Y
CL58 Protection of Existing Flora	Y	Tree removal which includes the removal of four (4) local native species is proposed. Council's Biodiversity Officer has raised no objection to the proposed tree removal, subject to conditions of consent requiring replacement planting of suitable species.	Y
CL59 Koala Habitat Protection	Y	<p>Council's Biodiversity Officer has reviewed the proposal and acknowledged that the DA does not provide any assessment of compliance against SEPP (Koala Habitat Protection) which applied to the subject lot as it has an area of at least one (1) hectare (including adjoining land within the same ownership).</p> <p>A lack of recent and/or historical koala, combined with relatively minor tree removal from a peri-urban interface, is not considered to be Core Habitat as defined under the SEPP and therefore no objection is raised, on the condition that adequate tree replacement, including species listed from within Schedule 2 (Central Coast) of the SEPP are imposed on any consent issued.</p>	Y
CL60 Watercourses & Aquatic Habitats	N	There are no watercourses or riparian buffer on the property	N/A
CL61 Views	Y	The development is not considered likely to unreasonably detract from any existing	Y

General Principles	Applies Y/N	Comments	Complies Y/N
		views to or from the public or private domain.	
CL62 Access to sunlight	Y	The development is not considered to unreasonably overshadow nearby land.	Y
CL63 Landscaped Open Space	Y	Compliant.	Y
CL63A Rear Building Setback	Y	Whilst the proposed lower building maintains compliance with the minimum 10 metre numerical requirement (43 metre setback provided), the location of the bin storage room within this setback and the fact that it is located less than 10 metres from the rear property boundary, results in a non-compliance with this requirement.	N
CL64 Private open space	Y	The development provides communal rooms for the use of lodgers. It is unclear from the plans provided how the outdoor spaces across the site could be used by lodgers as private open space.	Y
CL65 Privacy	Y	The development affords a satisfactory provision of privacy and does not cause unreasonable direct overlooking into habitable rooms and principal private open space of other dwellings.	Y
CL66 Building bulk	Y	The development presents a built form which has significant bulk, which is exacerbated by the non-compliant front and side setbacks, which are dominated in places by the hardscape of driveways and footpaths. This, in conjunction with the RFS requirements for bushfire protection, precludes the achievement of a significant landscape setting to mitigate the bulk of the built form.	N
CL67 Roofs	Y	The roof form is acceptable.	Y
CL68 Conservation of Energy and Water	Y	A BASIX Certificate is not required.	N/A
CL70 Site facilities	Y	The location of the proposed waste bin storage rooms within the front and rear	N

General Principles	Applies Y/N	Comments	Complies Y/N
		setbacks of the site are not considered adequate. The bin storage room along Wyatt Avenue will have an adverse impact on the streetscape and the location of the bin storage room within the rear setback is not considered to be adequate.	
CL71 Parking facilities (visual impact)	Y	The proposed parking is provided within basements under each building. There are four (4) at-grade car parking spaces proposed, these are sufficiently removed from the street so as not to have adverse visual impacts.	Y
CL72 Traffic access & safety	Y	The development application (including the proposed vehicle access) has been reviewed by Council's Traffic Engineer who raises no objection to the development in relation to traffic impacts, subject to recommended conditions.	Y
CL74 Provision of Carparking	Y	Council's Traffic Engineer has reviewed the proposed basement car parking spaces for each building as well as the at-grade visitor parking spaces and these are considered suitable, subject to conditions.	Y
CL75 Design of Carparking Areas	Y	Council's Traffic Engineer has assessed the proposed car parking arrangements which are considered suitable, subject to conditions.	Y
CL76 Management of Stormwater	Y	Council's Development Engineer has assessed the proposed stormwater design and it is considered suitable, subject to conditions of consent.	Y
CL 77 Landfill	Y	The development will require minimal landfill adjacent to the areas of excavation, to a scale that would not have adverse impacts upon the visual and natural environment or the amenity of adjoining of surrounding properties.	Y
CL78 Erosion & Sedimentation	Y	Erosion and sediment control measures could be addressed through standard conditions of consent.	Y
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks		The Aboriginal Heritage Office has reviewed the proposal and raises no concerns.	

General Principles	Applies Y/N	Comments	Complies Y/N
and Wildlife Service			
CL82 Development in the Vicinity of Heritage Items	N	The development is not within the vicinity of any heritage items.	N/A
CL83 Development of Known or Potential Archaeological Sites	N	The site does not comprise a known or potential archaeological site.	N/A

SCHEDULES

Schedule 6 - Preservation of Bushland

The development necessitates the removal of existing vegetation on the site, including four (4) locally native trees and three (3) trees that also require consent (all other trees are identified as exempt species).

Council's Biodiversity Officer has advised that, subject to conditions of consent requiring replacement tree planting, the proposed tree removal to facilitate the proposed development is considered acceptable.

Schedule 8 - Site analysis

The DA is accompanied by an appropriate site analysis, both in drawing form and in the Statement of Environmental Effects.

Schedule 9 - Notification requirements for remediation work

No remediation works are required to make the land suitable for the proposed use.

Schedule 10 - Traffic Generating Development

The proposed development is not traffic generating development.

Schedule 11 - Koala Feed Tree Species and Plans of Management

Council's Biodiversity Officer has reviewed the proposal and acknowledged that the DA does not provide any assessment of compliance against SEPP (Koala Habitat Protection) which applied to the subject lot as it has an area of at least one (1) hectare (including adjoining land within the same ownership).

A lack of recent and/or historical koala, combined with relatively minor tree removal from a peri-urban interface, is not considered to be Core Habitat as defined under the SEPP and therefore no objection is raised, on the condition that adequate tree replacement, including species listed from within Schedule 2 (Central Coast) of the SEPP are imposed on any consent issued.

Schedule 14 - Guiding Principles for Development near Middle Harbour

The matters under Schedule 14 are not applicable to the proposed development as there is no foreshore in the vicinity of the site.

POLICY CONTROLS

Northern Beaches Section 7.12 Contribution Plan 2021

The proposal is subject to the application of the Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of **\$77,000** is required for the provision of new and augmented public infrastructure. The contribution is calculated at 1% of the total development cost of \$7,700,000.

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. The application received 95 submissions, raising a number of issues with the proposed development, as detailed and addressed within this report.

A summary of the key issues addressed within this report are as follows:

- The proposal exceeds the maximum building height development standard. The application has not demonstrated that the resulting development is consistent with the general principles of development control and the desired future character of the locality as required by Clause 20 of Warringah LEP 2000.
- This report demonstrates that the development is not low intensity and low impact, in accordance with the requirements of Category 2 Development in the C8 Belrose North locality.
- The development results in unreasonable impacts on surrounding, adjoining, adjacent and nearby properties

As such, the development application is recommended for refusal.

RECOMMENDATION - REFUSAL

Reasons for Refusal

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development application has failed to acknowledge and address the lower building's exceedance of the maximum 8.5 metre building height development standard of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000. The provisions of Clause 20 of the Warringah Local Environmental Plan 2000 have not been addressed.
2. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is non-compliant with the maximum ceiling height built form control of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is non-compliant with the front setback control of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000. The bin storage room along the site's Wyatt Avenue frontage is located 3 metres from the front property boundary.
4. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is non-compliant with the 50% bushland setting control of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000..
5. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the Desired Future Character of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000.
6. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of Clause 52 (Development near parks, bushland reserves and other public open spaces) of the Warringah Local Environmental Plan 2000 as the site directly adjoins bushland to the north. The proximity of the lower building and the bin storage room within the rear portion of the site does not provide an adequate landscape transition to the bushland.
7. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with Clause 56 (Retaining distinctive environmental features on the site) of the Warringah Local Environmental Plan 2000. The extent of earthworks required across the site, particularly to facilitate the proposed aboveground on-site detention basin significantly alters the existing landform of the site. There is an existing rock outcrop in proximity to the proposed basin and insufficient information has been provided to determine the likely impacts of the construction and use of the on-site detention basin on this feature. The location of the basin and proposed bin storage room within the rear portion of the site also limits the ability to plant vegetation in these areas, which diminishes the transition of the built form with the adjoining bushland to the north.
8. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with Clause 70 (Site Facilities) of the Warringah Local Environmental Plan 2000. The location of the proposed waste bin storage rooms within the front and rear setbacks of the site are not considered adequate. The bin storage room along Wyatt Avenue will have an adverse impact on

the streetscape and the location of the bin storage room within the rear setback is not considered to be adequate.

9. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is non-compliant with Clause 63A (Rear building setback) of the Warringah Local Environmental Plan 2000. The bin storage room encroaches into the required 10 metre rear building setback.
10. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered to be suitable for the proposed development.
11. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest.