



SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	2018SNH067
Application Number	DA2018/1708
LGA	Northern Beaches
Proposed Development	Demolition works and construction of a boarding house
Land to be developed (Address)	Lot 2 DP 589654, 197 Sydney Road FAIRLIGHT NSW 2094 Lot 87 DP 1729, 195 Sydney Road FAIRLIGHT NSW 2094
Owner	Michael Ben Vance Kelly Maree Vance Kevin Bruce Andrews Joan Lynette Andrews
Applicant	Micronest Pty Ltd
Date of Application lodgement	18/10/2018
Number of Submissions	251
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 5 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 requires that private infrastructure and community facilities (including affordable housing) that has a capital investment value of more than \$5 million is to be determined by the relevant regional panel (Sydney North Planning Panel). The capital investment value of this proposed development is \$12,192,024.
List of all relevant s4.15(1) (a) matters	
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects prepared by Urbis dated 16 October 2018 • Architectural Design Report prepared by Modularium dated 25 September 2018 • BASIX and NatHERS Certificate prepared by Efficient Living dated 12 October 2018 • Ecologically Sustainability Development Report • Traffic Impact Assessment prepared by PDC Consultants dated 12 October 2018 • Acoustic Report prepared by Wood & Grieve Engineers dated 31 August 2018 • BCA Design Compliance Report prepared by Matt Shuter & Associates dated 5 October 2018 • Geotechnical Investigation prepared by STS Geotechnical dated August 2018 • Preliminary Site Investigation prepared by STS Geotechnical dated August 2018 • Waste Management Plan (Operational) prepared by Waste Audit dated September 2018 • Demolition and Construction Waste Management Plan prepared by Waste Audit dated October 2018



	<ul style="list-style-type: none"> • Construction Management Plan prepared by ABC Consultants (undated) • Plan of Management prepared by Micronest dated 3 October 2018 • Stormwater Design Statement prepared by Integrated Group Services dated 4 October 2018 • Capital Investment Report prepared by Altus Group dated 22 November 2018
Report prepared by	Louise Kerr Director, Planning and Place
Responsible Officer	Claire Ryan, Principal Planner
Report date	

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **YES**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **NO**

Conditions

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report **NO**

Northern Beaches Council is in receipt of Development Application DA2018/1708 for demolition works and construction of a boarding house at 195-197 Sydney Road, Fairlight. The proposed development constitutes regionally significant development under Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*, requiring referral to the Sydney North Planning Panel for determination, as it is affordable housing with a capital investment value of greater than \$5 million.

Based on a detailed assessment of the proposal against the applicable planning controls, the proposal is unsuitable and is an inappropriate development for the subject site. The proposed development received 251 submissions. 250 of the submissions were not supportive of the proposed development generally due to bulk and scale, amenity impacts, traffic congestion and social concerns. The proposed development is not supported for the following reasons:

- Sydney Road is characterised by landscaped front setbacks and natural features (rock outcrops). The proposal does not provide adequate tree planting in the front setback area, commensurate to its scale and form, in that it does not provide adequate planting.

- The proposed rear setback adds to the visual impact and results in unacceptable bulk and scale, and does not allow for adequate vegetation, considering the existing character of the area.
- Given the above, the design of the proposed development is incompatible with the character of the local area. The predominant character of the area is a mix of townhouse/multi dwelling housing and residential flat buildings in a landscaped setting. Other examples of town house/multi dwelling housing developments in the local area are 'detached' and sufficiently articulated to ensure the bulk and scale of the development is minimised when viewed from the street and surrounding properties.
- The proposed development is therefore not in the public interest.
- The proposed development includes a prohibited use, being a cafe in the R1 General Residential zone.
- The proposal does not provide adequate information in relation to traffic generation and stormwater management.

The application has been assessed against the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), *Environmental Planning and Assessment Regulations 2000* (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies. The outcome of this assessment is detailed within this report.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be **refused**.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - Zone R1 General Residential
Manly Local Environmental Plan 2013 - 6.4 Stormwater management
Manly Local Environmental Plan 2013 - 6.12 Essential services
Manly Development Control Plan - 3.1 Streetscapes and Townscapes
Manly Development Control Plan - 3.3.1 Landscaping Design

- Manly Development Control Plan - 3.4.2 Privacy and Security
- Manly Development Control Plan - 3.4.3 Maintenance of Views
- Manly Development Control Plan - 3.7 Stormwater Management
- Manly Development Control Plan - 4.1 Residential Development Controls
- Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
- Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

SITE DESCRIPTION

Property Description:	Lot 2 DP 589654 , 197 Sydney Road FAIRLIGHT NSW 2094 Lot 87 DP 1729 , 195 Sydney Road FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of two allotments on the southern side of Sydney Road in Fairlight.</p> <p>The site is irregular in shape with a frontage of 27.16m along Sydney Road and a varying depth of between 66.83m and 78.94m. The site has a surveyed area of 1,789m².</p> <p>The site falls approximately 12 metres from the rear boundary (south) to the street (north). The subject site sits on a rock shelf traversing the site east to west.</p> <p>The site is located within the R1 General Residential Zone under Manly Local Environmental Plan 2013.</p> <p>The subject site currently contains two dwelling houses in landscaped settings. Surrounding development is characterised by a mix of dwelling houses, multi dwelling housing, and residential flat buildings. To the north are single dwelling houses and multi dwelling housing. To the south is a group of three multi-storey residential flat buildings. To the east and west are single dwellings and residential flat buildings. The Fairlight local centre is located approximately 265 metres to the east of the subject site.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant recent history:

- DA0020/2017 (at 195 Sydney Road, Fairlight) for demolition and construction of multi-dwelling housing was approved on 6 July 2017.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the following works:

- Demolition of existing structures;
- Construction of a 75-room boarding house (including Manager's room), comprising:
 - Two main pavillions, as follows:
 - Building A (broken into three blocks) containing 38 rooms to a maximum height of RL 63.100; and
 - Building B (broken into two blocks) containing 37 rooms to a maximum height of RL 67.200.
 - Basement car parking for 38 cars, 15 motorcycles and 15 bicycles;
 - Total of 126 residents (51 double rooms and 24 single rooms);
- Landscaping; and
- Associated infrastructure works.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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



Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters can be addressed via a condition of consent, should the application be approved.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent, should the application be approved.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter can be addressed via a condition of consent, should the application be approved.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>



Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the MDCP 2013 and will result in a development which will create an undesirable outcome by undermining the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 251 submission/s from:

Name:	Address:
Mr James Adam Forsyth	3 / 199 Sydney Road FAIRLIGHT NSW 2094
Mr Gavin James Bell	6 Brisbane Street FAIRLIGHT NSW 2094
Mrs Mary Alexandra Louise Stewart	5 / 199 Sydney Road FAIRLIGHT NSW 2094



Name:	Address:
Mrs Jennifer Louise Forsyth	3 / 199 Sydney Road FAIRLIGHT NSW 2094
Mr Stephen William Brailey	9 / 6 Bellevue Street FAIRLIGHT NSW 2094
Mrs Florence Marie Anne Regnaut-Godfrey	13 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Mr Ian Joseph Woollacott	2 / 189 Sydney Road FAIRLIGHT NSW 2094
Ms Anne Ethel Skea	15 Brisbane Street FAIRLIGHT NSW 2094
Mrs Virginia Lynette Stokes	12 Brisbane Street FAIRLIGHT NSW 2094
Mr Brett Andrew Shepherd	208 Sydney Road FAIRLIGHT NSW 2094
Mr Jamie Robert Sinclair	4 Brisbane Street FAIRLIGHT NSW 2094
Ms Shona Lee Luciani	206 Sydney Road FAIRLIGHT NSW 2094
Mrs Jean Elisabeth Josephine Yarrow	Flat 1 St Saviour'S Church House 24 Blenheim Gardens NSW
Monique Licardy	Invalid Address NSW
Mrs Susanne Linda Kirk	16 Brisbane Street FAIRLIGHT NSW 2094
Mr David Mackenzie Skea	15 Brisbane Street FAIRLIGHT NSW 2094
Ms Valarie Schulte	1 Brisbane Street FAIRLIGHT NSW 2094
Nicola Bird	
Mr Stuart Peter Leonard Butcher	213 Sydney Road FAIRLIGHT NSW 2094
Ms Helen Lesley Martin	4 Krui Street FAIRLIGHT NSW 2094
Mr Nathan Leigh Cooksley	5 / 6 Bellevue Street FAIRLIGHT NSW 2094
Ms Fiona McAuley	3 / 5 Bellevue Street FAIRLIGHT NSW 2094
Mrs Carol Ann Havener	2 Cohen Street FAIRLIGHT NSW 2094
Mr Peter John Stephenson	5 / 174 - 176 Sydney Road FAIRLIGHT NSW 2094
Mr Noel Gerard McNamara	5 Brisbane Street FAIRLIGHT NSW 2094
Dr Kiril Goring-Siebert	2 Bellevue Street FAIRLIGHT NSW 2094
Philip Scott Weekes	5 / 28 Lismore Avenue DEE WHY NSW 2099
Haley Katrina Janssens	4/129 Kurraba Road KURRABA POINT NSW 2089
Edmund Paton Walsh	4 / 13 Brisbane Street FAIRLIGHT NSW 2094
Gordon Hook	
Mrs Denise Ann Quinn	50 Upper Clifford Avenue FAIRLIGHT NSW 2094
David Mcneil	178 Sydney Road FAIRLIGHT NSW 2094
Kerri Hammond	17 Kangaroo Street MANLY NSW 2095
Mrs Natasha Rachelle Rooney	212 Sydney Road FAIRLIGHT NSW 2094
Jack Fox	
Mr Edmund Allan Lougher	4 / 174 - 176 Sydney Road FAIRLIGHT NSW 2094
Timothy Mark Gruchot	3 / 5 Bellevue Street FAIRLIGHT NSW 2094
Ms Sarah Louise Medley	3 / 6 Bellevue Street FAIRLIGHT NSW 2094
Mrs Margaret Anne Perkins	177 Sydney Road FAIRLIGHT NSW 2094
Miss Jennifer Ann Corbett	15 / 189 Sydney Road FAIRLIGHT NSW 2094



Name:	Address:
Mr Cameron John Spencer	14 Bellevue Street FAIRLIGHT NSW 2094
Miss Joan Mavis Lambert	6 / 189 Sydney Road FAIRLIGHT NSW 2094
Withheld	FAIRLIGHT NSW 2094
Ms Tanya Romaine Smart	13 Edwin Street FAIRLIGHT NSW 2094
Mr Steven James Davies	23 Edwin Street FAIRLIGHT NSW 2094
Mrs Tamara Anne Kirby	6 St Pauls Road NORTH BALGOWLAH NSW 2093
Ms Valerie Anne-Marie Slattery	1/164-166 Sydney Road FAIRLIGHT NSW 2094
Mrs Simone Alleyne Massey	1 / 56 Hilltop Crescent FAIRLIGHT NSW 2094
Ms Belinda Frances Leatham	4/166 Sydney Road FAIRLIGHT NSW 2094
Mr Robert Silver	2 Brisbane Street FAIRLIGHT NSW 2094
Luke Smart	13 Edwin Street FAIRLIGHT NSW 2094
Ms Judith Haverfield	PO Box 888 BALGOWLAH NSW 2093
Ms Laurina Luiza Barbetti	10 Bellevue Street FAIRLIGHT NSW 2094
Mrs Rosemary Ann Wilson	17 Bellevue Street FAIRLIGHT NSW 2094
Mr Richard James Atkinson	38 Bellevue Street FAIRLIGHT NSW 2094
Brad Maurice	
Mrs Yvette Blount	2 / 190 Sydney Road FAIRLIGHT NSW 2094
Mr Nigel Bligh Davey	4 Bellevue Street FAIRLIGHT NSW 2094
Mr Christopher Richard Flanagan	24 Bellevue Street FAIRLIGHT NSW 2094
Ms Jo Lee	2 / 9 Fairlight Crescent FAIRLIGHT NSW 2094
Gifford Lee	2 / 9 Fairlight Crescent FAIRLIGHT NSW 2094
Mr Adrian Grant Popek	9/10-12 Cohen Street FAIRLIGHT NSW 2094
Colco Consulting Pty Ltd	29 A Amiens Road CLONTARF NSW 2093
Mr Agis Zenon	1 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr James Michael McDougall	1 Cohen Street FAIRLIGHT NSW 2094
Ayesha Ballesty	221 Sydney Road FAIRLIGHT NSW 2094
Mr Barry James Armstrong	185 Sydney Road BALGOWLAH NSW 2093
Ms Susan Dorothy Spradbrow	1 / 19 Cove Avenue MANLY NSW 2095
Mrs Helena June Northey	267 Sydney Road FAIRLIGHT NSW 2094
Holding Redlich Lawyers	5A/24 Lower Beach Street BALGOWLAH NSW 2093
Ms Janine Claire Alexandra Woodside	217 Sydney Road FAIRLIGHT NSW 2094
Ms Jodie Christina Kampf Summers	1/184 Sydney Road BALGOWLAH NSW 2093
Ms Valerie Anita Crawford	15 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Peter McAuley	14 Poulton Parade FRENCHS FOREST NSW 2086
Ms Anita Maree Tymkiw	28 Bellevue Street FAIRLIGHT NSW 2094
Mrs Denise Maxine McIlwaine	169 Sydney Road FAIRLIGHT NSW 2094



Name:	Address:
Nandine Paradas	204 Sydney Road FAIRLIGHT NSW 2094
Mrs Elisha Wendy Walsh	3 / 184 Sydney Road FAIRLIGHT NSW 2094
Mr Dennis Charles Brewer	32 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Cameron Peter Walsh	3 / 184 Sydney Road FAIRLIGHT NSW 2094
Ms Amy Elizabeth Forsyth	11 / 165 Sydney Road FAIRLIGHT NSW 2094
Jennifer Clarkson	3 / 189 Sydney Road FAIRLIGHT NSW 2094
Ms Ana Carolina Castaneda Galaxe	6 / 184 Sydney Road FAIRLIGHT NSW 2094
Mr David Michael Hunston	4 / 184 Sydney Road FAIRLIGHT NSW 2094
Erica Savage	1 / 267 Sydney Road FAIRLIGHT NSW 2094
Mrs Sandra Madeline Hudspith	1 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr John Charlton Reid	8 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Mr Peter John Ellis	18 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Mrs Maryann Novakovic	9 / 100 Sydney Road MANLY NSW 2095
Mr Michael Ryce	2 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
T Mcfarlane	2 / 165 Sydney Road FAIRLIGHT NSW 2094
Millie Mcfarlane	2 / 165 Sydney Road FAIRLIGHT NSW 2094
Mr Mark James Perkovich	196 Sydney Road FAIRLIGHT NSW 2094
Mrs Deborah Wendy Mundell	65 George Street AVALON BEACH NSW 2107
Christopher David Sirote	2 / 199 Sydney Road FAIRLIGHT NSW 2094
Mrs Raneer Maris Stella Fitzgerald	244 Sydney Road FAIRLIGHT NSW 2094
Ms Jennifer Anne Willis-Smith	160 Sydney Road FAIRLIGHT NSW 2094
Mrs Patricia Caroline Darke	1 / 7 Bellevue Street FAIRLIGHT NSW 2094
Sarah Bernie	147 Balgowlah Road BALGOWLAH NSW 2093
Mr Joshua Harry Terrett	1 / 189 Sydney Road FAIRLIGHT NSW 2094
Ms Helen Avril Norton	8 Brisbane Street FAIRLIGHT NSW 2094
Mr Andrew John Tipping	13 Bellevue Street FAIRLIGHT NSW 2094
Ronan Lonsdale Lancaster	1 Bellevue Street FAIRLIGHT NSW 2094
Mrs Samantha Natalie Tipping	13 Bellevue Street FAIRLIGHT NSW 2094
Mr Alois Lechner	11 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Ms Treacy Frances Devlin	4 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Mr Michael James Wardman	4 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Ms Lisa Naomi Gallate	5 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Ms Cheryl Josephine Smith	50 Rosedale Avenue FAIRLIGHT NSW 2094
Ms Lynn Suzanne Amitrano-Hudson	28 Rosedale Avenue FAIRLIGHT NSW 2094
Withheld	FAIRLIGHT NSW 2094
Mr Matthew Adrien Baker	216 Sydney Road FAIRLIGHT NSW 2094



Name:	Address:
Mrs Sui-Lin Baker	
Ms Pauline Elizabeth Barnard	2 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Brian Albert Mathew	3 / 8 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Richard Smith	20 Brisbane Street FAIRLIGHT NSW 2094
Mrs Isabel Gladys Clare Glasson	4 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Donald Keith Davison	253 Sydney Road FAIRLIGHT NSW 2094
Mr Richard John Griffin	16 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Amber Sirote	2 / 199 Sydney Road FAIRLIGHT NSW 2094
Mr Anthony Joseph Corbel	9 Brisbane Street FAIRLIGHT NSW 2094
Mrs Judith Ann Twigg	7 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Andrew John Parkinson	10 / 25 Oliver Street FRESHWATER NSW 2096
Mr Peter Andrew Macinnis	1 / 190 Sydney Road FAIRLIGHT NSW 2094
Mrs Meryll Marion Macarthur	12 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Ms Marina Louise Barbara Dunshea	198 Sydney Road FAIRLIGHT NSW 2094
Mr Michael Andrew Yiend	1 / 220 Sydney Road FAIRLIGHT NSW 2094
Mrs Robin Jeanette Hanson Mr Peter James Hanson	2 Melbourne Street FAIRLIGHT NSW 2094
Mrs Emily Margaret Washbrook	10 Charles Street FAIRLIGHT NSW 2094
Christopher Hugh Laine Naftel	3 / 189 Sydney Road FAIRLIGHT NSW 2094
Mr Guy Anthony Bryant-Fenn	8 Brisbane Street FAIRLIGHT NSW 2094
Alexandra Gracey	3 / 202 Sydney Road FAIRLIGHT NSW 2094
Rachel Day	
Mr Christopher Colin Martin	1 / 21 A Cohen Street FAIRLIGHT NSW 2094
Deborah Newton	1 / 224 Sydney Road FAIRLIGHT NSW 2094
Ms Tracy Lee Lawton	4 / 189 Sydney Road FAIRLIGHT NSW 2094
Ms Jade Elisha Matthews	1 / 9 Bellevue Street FAIRLIGHT NSW 2094
Ms Jo-Anne Lynn Gregory	15 / 43 - 45 East Esplanade MANLY NSW 2095
Mr Anthony Constanti	4 / 139 Sydney Road FAIRLIGHT NSW 2094
Ms Julie Anne King	16 Bellevue Street FAIRLIGHT NSW 2094
Mrs Jennifer Theresa Bensted	1 / 169 - 171 Pittwater Road MANLY NSW 2095
Mrs Pamela Margaret O'Brien	11 La Perouse Street FAIRLIGHT NSW 2094
Mr James Robert Angove	23 Austin Street FAIRLIGHT NSW 2094
Ms Gillian Cameron	3 A Cohen Street FAIRLIGHT NSW 2094
Mr Harry Hammond	1/201 Sydney Road FAIRLIGHT NSW 2094
Mr Andrew David Lofts	2 / 184 Sydney Road FAIRLIGHT NSW 2094
Mr Richard Michael Linstead	11 Bellevue Street FAIRLIGHT NSW 2094
Mrs Estella Daniela Daly	181 Sydney Road FAIRLIGHT NSW 2094



Name:	Address:
Mr Howard Paul Womersley	217 Sydney Road FAIRLIGHT NSW 2094
Ms Leigh Elaine Coppin	11 / 189 Sydney Road FAIRLIGHT NSW 2094
Mr Robert James Campbell Godfrey	13 / 201 - 207 Sydney Road FAIRLIGHT NSW 2094
Mr Samuel Thomas Duncan	219 Sydney Road FAIRLIGHT NSW 2094
Mrs Sophia Christie Duncan	219 Sydney Road FAIRLIGHT NSW 2094
Ms Sophie Elizabeth Tyner	14 / 189 Sydney Road FAIRLIGHT NSW 2094
Mr Simon Robert Gleeson	1 / 236 Sydney Road FAIRLIGHT NSW 2094
Mr Darko Novakovic	9 / 100 Sydney Road MANLY NSW 2095
Mr Jurgen Spangl	7 A Cohen Street FAIRLIGHT NSW 2094
Ms Alexandra Boase	6 William Street FAIRLIGHT NSW 2094
Ms Kellie Marks	46 Darley Road MANLY NSW 2095
Mr Aaron Paul Blanchard	10 / 189 Sydney Road FAIRLIGHT NSW 2094
Mr Ken William Stewart	196 A Sydney Road FAIRLIGHT NSW 2094
Mrs Catherine Hubert	
Ms Jacinta Louise Worland	7 / 189 Sydney Road FAIRLIGHT NSW 2094
Ms Kylie Elizabeth Hunter	8 / 51 Griffiths Street FAIRLIGHT NSW 2094
Mrs Janet Marie Souter Mr Robert James Souter	2 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mrs Margaret Jablonski	9 / 189 Sydney Road FAIRLIGHT NSW 2094
Mr Eric John Goodwin	20/4-8 Hilltop Crescent FAIRLIGHT NSW 2094
Ms Vivian Rounsley	16 Baltic Street FAIRLIGHT NSW 2094
Ms Katrina Helen Peterson	210 Sydney Road FAIRLIGHT NSW 2094
Mr Niall Healy	7 / 8 Lauderdale Avenue FAIRLIGHT NSW 2094
Mrs Ursula Ann Hopper	3 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Daniel Jonathan Goodwin	16 Roger Street BROOKVALE NSW 2100
Virginia Hewitt	2 / 189 Sydney Road FAIRLIGHT NSW 2094
Mr Rodney Morris Wills	1 / 9 Margaret Street FAIRLIGHT NSW 2094
Ms Alex Stewart	5 / 199 Sydney Road FAIRLIGHT NSW 2094
Gus Rudolph	
Mrs Susan Rudolph	4 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Ms Natalie Laura Smith	2 / 232 Sydney Road FAIRLIGHT NSW 2094
Matthew Cooper	
Mr Timothy Edward Brimmer	29 / 1161 - 1171 Pittwater Road COLLAROY NSW 2097
Mrs Judith Harris	13 / 133 Sydney Road FAIRLIGHT NSW 2094
Mrs Julia Eilo Reader	10 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Roger Charles Twigg	4 / 2 - 3 Berry Avenue FAIRLIGHT NSW 2094
Mr John William Murphy	Po Box 861 ORANGE NSW 2800
Mr Galen Alexander Rudolph	4 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mrs Leisa Jane Brown	1 / 6 Krui Street FAIRLIGHT NSW 2094
Mrs Helen Anne Kraefft	51 B Kangaroo Street MANLY NSW 2095



Name:	Address:
Ms Katherine Lucy Ann Williams	1 Krui Street FAIRLIGHT NSW 2094
Ms Carol Tereze Wardi	6 / 4 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Glenn Kiernan	17 Melbourne Street FAIRLIGHT NSW 2094
Rodney Williams	1 Melbourne Street FAIRLIGHT NSW 2094
Mr David Grant Nash	5 / 4 George Street MANLY NSW 2095
Nicola McMahon	4 / 4 Cohen Street FAIRLIGHT NSW 2094
Mr Robert James Marshall	16 B Willyama Avenue FAIRLIGHT NSW 2094
Ms Corinne Myriam Schmitt	33 Griffiths Street FAIRLIGHT NSW 2094
Mr Alan Godfrey Martin	17 Crescent Street FAIRLIGHT NSW 2094
Roland Drew	
Ross Alan Dalgleish	12 B Brighton Street FRESHWATER NSW 2096
Mr James Ian Ferguson	259 Sydney Road FAIRLIGHT NSW 2094
Ms Sarah Joan Finlay	37 Wattle Avenue FAIRLIGHT NSW 2094
Miss Nina Gerace	1 / 41 Fairlight Street FAIRLIGHT NSW 2094
Mrs Rosamund Claire Gregory Leslie	2 / 2 Austin Street FAIRLIGHT NSW 2094
Mr Felix Yumul Ocampo	13/15-21 Daintrey Street FAIRLIGHT NSW 2094
Kerri Clare	3 Griffiths Street FAIRLIGHT NSW 2094
Mrs Jane Louise Vieceli	26 Jamieson Avenue FAIRLIGHT NSW 2094
Ms Dany Cathryn Rostron	30 B Hill Street FAIRLIGHT NSW 2094
Mrs Carla Danelle Stafford	83 Balgowlah Road FAIRLIGHT NSW 2094
Peter Brewer	1 / 33 Fairlight Crescent FAIRLIGHT NSW 2094
Ms Margaret Mary Sullivan	6 / 299 Sydney Road BALGOWLAH NSW 2093
Ms Katharine Maree Carty	13 Hilltop Crescent FAIRLIGHT NSW 2094
Mrs Karen Ann Iorns	249 Sydney Road FAIRLIGHT NSW 2094
Mr Warren Douglas Randell	92 Griffiths Street FAIRLIGHT NSW 2094
Ms Michelle Lorraine Wilkinson	2 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Ms Fiona Jane McGregor	PO Box N410 GROSVENOR PLACE NSW 1220
Mrs Julia Madalyn Laaman	4 Crescent Street FAIRLIGHT NSW 2094
Ms Germaine Claire Montgomery	42 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Anthony Craig Jeckeln	30 B Hill Street FAIRLIGHT NSW 2094
Mr Graham D Cavanagh-Downs	31 Woods Parade FAIRLIGHT NSW 2094
Mrs Susan Patricia Cameron	3 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Robert William Maurice Cameron	7 Adelaide Street BALGOWLAH HEIGHTS NSW 2093
Mr Alistair Wishart Gibson	13 Crescent Street FAIRLIGHT NSW 2094
Natalie Ann Webber	2 / 27 Fairlight Street FAIRLIGHT NSW 2094
Mr Malcom White	2 / 29 Fairlight Street FAIRLIGHT NSW 2094



Name:	Address:
Mr Bruce Maurice Bradnam	10H Hilltop Crescent FAIRLIGHT NSW 2094
Mr Richard William John Keyte	27 Quinton Road MANLY NSW 2095
Bick & Steele	Level 35 Tower One International Towers 100 Barangaroo Avenue BARANGAROO NSW 2000
Mr David Maurice Montgomery	2/2A William Street FAIRLIGHT NSW 2094
Mr Peter John Dickinson	211 Sydney Road FAIRLIGHT NSW 2094
Ms Olivia Heulwen Jenkins	2 / 9 Bellevue Street FAIRLIGHT NSW 2094
Ms Pamela Doreen Prior	3/26-28 Fairlight Street FAIRLIGHT NSW 2094
Ms Katarina Kevicka	46 Daintrey Street FAIRLIGHT NSW 2094
Mrs Rachel Helen Edwards	23 Thornton Street FAIRLIGHT NSW 2094
Mr Mark Marusic	
Mrs Dale Vivienne Lorimer	8 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Maria Jones Caballero	13 Lygon Place CASTLE HILL NSW 2154
Mrs Libby Bronwyn Walstab	51 Boyle Street BALGOWLAH NSW 2093
Mrs Leonie Margaret Leslie	2 Hilltop Crescent FAIRLIGHT NSW 2094
Mrs Karen Elizabeth Mann	26 Crescent Street FAIRLIGHT NSW 2094
Mrs Vivienne Elizabeth Tucker	48 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Arne Nicholas Borg	19 Wattle Avenue FAIRLIGHT NSW 2094
Ms Gemma Francesca Dawson	13 Crescent Street FAIRLIGHT NSW 2094
Withheld	FAIRLIGHT NSW 2094
Mrs Deborah Ann Clark	2 / 73 Fairlight Street FAIRLIGHT NSW 2094
Mr Phillip John Lawton	3 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Angus Edward Crompton Leslie	218 Sydney Road FAIRLIGHT NSW 2094
Mr Maxwell Robert Paterson	2 / 133 Sydney Road FAIRLIGHT NSW 2094
Jenny Paterson	8 Curl Curl Parade CURL CURL NSW 2096
Manly Electorate Office	Shop 2 2 Wentworth Street MANLY NSW 2095
Mrs Jennifer Ann Paterson	2 / 133 Sydney Road FAIRLIGHT NSW 2094
Mr Eric Baer	6 Lauderdale Avenue FAIRLIGHT NSW 2094
Miss Helen Judith Blaxland	1 / 131 Sydney Road FAIRLIGHT NSW 2094
Mr Stephen Fitzmaurice Leslie	2 / 2 Austin Street FAIRLIGHT NSW 2094

Overdevelopment

Submissions raised concern that the proposal presented overcrowding of the site, given the proposed number of residents and their visitors. Objection was raised that the proposal exceeded the State government's cap of 12 rooms per boarding house. Submissions stated that the previous approval for townhouses is more appropriate for the site.

Comment:

The subject site is zoned R1 General Residential. The State government's cap on the number of rooms within a boarding house applies to land zoned R2 Low Density Residential. The previous approval for townhouses remains valid on site to date and may be acted upon by the landowners. However, it is important to note that R1 General Residential allows for many types of residential development, including residential flat buildings. As such, higher density developments are envisaged for this site and area. Visitors to the site are limited and managed by the Plan of Management.

Traffic and Parking

Many submissions raised concern that the proposed development does not provide sufficient onsite parking, and that the proposed development will affect existing on-street parking. Submissions also raised concern that the proposed development will result in traffic congestion (particularly during construction and due to moving vans when residents move in or out) and pedestrian safety concerns.

Comment:

The proposed development provides compliant parking in accordance with the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The proposed basement car parking area also includes a sufficient loading bay area for removalist vans. The proposed development is supported by a 5.8m-wide and 6.5m-long driveway, in excess of the NSW Roads and Maritime Services requirements for development fronting a classified road, and adequate sight lines for vehicles entering and exiting the site. As such, the proposed driveway is not anticipated to result in vehicular/pedestrian conflicts at the site frontage. Council's Traffic Engineer is not supportive of the proposed development in relation to traffic generation in the local area due to insufficient information (as detailed in the section of this report relating to Referrals). This forms a reason for refusal in the recommendation of this report.

Height, Bulk and Scale

Submissions raised concern that the proposed height of building was not compliant with Clause 4.3 Height of Building of the MLEP 2013 in relation to a lift shaft, and that it was excessive. Submissions also raised concern that the proposal presented excessive bulk, particularly in relation to wall height and setbacks (front, rear and sides).

Comment:

The submitted architectural plans demonstrate that the proposed development in its entirety (including the relevant lift shaft) is compliant with the maximum height of building control, consistent with Clause 4.3 Height of Building of the MLEP 2013. The proposed development is acceptable in relation to wall height for the reasons detailed in the section of this report relating to Clause 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height) of the MDCP 2013. The proposed development is assessed in relation to setbacks in the section of this report relating to Clause 4.1.4 Setbacks (Front, Side and Rear) and Building Separation of the MDCP 2013. The proposed rear setback is not supported.

Social Impacts

Concern was raised that residents of a boarding house are 'transient' and will be responsible for decreased property value, increased crime, decreased safety, unreasonable noise, bad behaviour, unclean living and littering. Concern was also raised that the location of these residents is inappropriate near a school / near children.

Comment:

No evidence has been provided to substantiate claims relating to behavioural issues of boarding house residents. A premises accommodating up to 126 persons does raise issues relating to noise. However, a boarding house is subject to stricter requirements in relation to resident behaviour (including noise) than other forms of residential accommodation. The application is supported by a Plan of Management that details how the ongoing use of the boarding house will be managed. The application is also

supported by an Acoustic Report that details that the development is unlikely to have any unreasonable acoustic impacts upon adjoining properties. This matter has been reviewed by Council's Environmental Health Officer who raises no objections to the development, subject to conditions as recommended.

Excavation

Submissions raised concern that the proposed development relies on excessive excavation on the site, which contains sandstone. Submissions also claimed the submitted geotechnical report is inadequate.

Comment:

The supporting geotechnical assessment details the site's subsurface condition and demonstrates that the proposed excavation is acceptable, subject to adherence to recommendations made in the report. The report was reviewed by Council's Development Engineer, who raised no objections to the proposal in relation to earthworks.

Character

Concern was raised in submissions that the proposed development is out of character with the locality, does not meet the objectives of the R1 General Residential Zone, and does not meet the 'character test' within the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. Objection was raised in relation to the destruction of the heritage value of the existing dwellings.

Comment:

The proposed development is not supported in relation to its presentation to the street, the non-compliant rear setback, and landscaping, insofar as these elements are inconsistent with the character of the area. These elements form reasons for refusal in the recommendation of this report. The subject site and adjacent sites are not heritage-listed, nor within a heritage conservation area.

Neighbouring Amenity – Construction and Operation

Submissions raised concern that construction of the proposed development would result in unreasonable construction dust and noise. Submissions also raised concern that the ongoing operation of the proposed development would result in visual privacy impacts, light spill, overshadowing and pollution.

Comment:

Should the proposed development be found worthy of approval, conditions of consent would be applied in relation to construction noise and dust control measures to ensure it does not result in unreasonable impacts. The proposed development is acceptable in relation to privacy and overshadowing for the reasons detailed in the section of this report relating to Clause 3.4.1 Sunlight Access and Overshadowing and Clause 3.4.2 Privacy and Security of the MDCP 2013. Potential light spill is reasonable in this case considering the design of the proposal, its residential use and physical separation from adjoining residential premises. The development is for the purpose of a boarding house and is not anticipated to result in the emission of pollutants that would unreasonably diminish the amenity of adjacent properties, the locality, or waterways.

Internal Amenity

Submissions raised concern in relation to the internal amenity of the proposed rooms and communal areas, claiming that they are inadequate in size. Concern was also raised that the rooms do not have laundry facilities.

Comment:

The *State Environmental Planning Policy (Affordable Rental Housing) 2009* ('SEPP ARH') provides that boarding rooms are to have a minimum area of 12 square metres for a single room, and 16 square metres for a double room, excluding private bathroom and kitchen facilities. The proposed development includes single and double rooms of at least 16 square metres (and up to 21 square metres), excluding

private bathroom and kitchen facilities. The boarding rooms are adequate in area. SEPP ARH does not stipulate a minimum requirement for communal area. The proposed development provides three communal rooms totalling 105 square metres. The communal areas provide adequate space for residents. SEPP ARH has no requirement for laundry facilities (whether private or communal) to be provided.

Notification / Consultation

A number of submissions noted that the notification period was inadequate to review the documentation supporting the application, and that community consultation was not undertaken. Submissions also raised that certain properties were not notified.

Comment:

The application was publicly notified from 30 October 2018 to 17 November 2018 and advertised in the Manly Daily on 3 November 2018. However, this notification did not identify that the Sydney North Planning Panel was the consent authority for this matter. As such, in accordance with Part 2 of the MDCP 2013 and with legislative requirements, the application was re-notified from 21 November 2018 to 15 December 2018 and advertised in the Manly Daily on 24 November 2018. Further notification was not considered necessary. The extent of notification (i.e. the properties notified) was in accordance with Part 2 of the MDCP 2013. The notification period is taken to be community consultation process.

Proposed Café

Submissions raised concern that the café will not activate the street and will cause unreasonable noise. Concern was also raised that the submitted documentation did not detail enough about the café use, including hours of operation and delivery management.

Comment:

As proposed, the café is a prohibited use in the R1 General Residential zone under the Land Use Table MLEP 2013. This forms a reason for refusal in the recommendation of this report.

Waste

Submissions raised concern that the proposed waste management is inadequate.

Comment:

Council requires a boarding house of this density to provide 13 x 660L bins. The proposed development includes 21 bins capable of storing at least 660L of waste. Council's Waste Officer is supportive of the application, subject to conditions of consent.

Stormwater

Submissions raised concern that the proposed development will result in unreasonable stormwater runoff and is not supported by onsite detention.

Comment:

Council's Development Engineer is not supportive of the proposal in relation to stormwater management and onsite detention. This forms a reason for refusal in the recommendation of this report.

Landscaping / Open Space

Submissions raised concern that the proposal does not provide sufficient open space, and that landscaping on structures (as proposed) are hard to manage with insufficient soil depth.

Comment:

The proposed development provides compliant total open space and landscaped open space, in accordance with Clause 4.1.5 Open Space and Landscaping of the MDCP 2013. The proposed development does not rely on the roof gardens for compliance with landscaped area.

Boarding House Management

Objections raised concern about capping the number of residents within the boarding house, capping the length of stay for residents, who maintains the property and who enforces the plan of management. Objections also raised that the boarding house is not supported by adequate fire safety evacuation measures. One objection raised that pets should be prohibited on the site.

Comment:

The submitted Plan of Management stipulates that no more than 126 persons (including the Manager) are to reside on site at any one time. The Plan of Management also stipulates that residents must reside on site for at least three months to ensure that rooms are not used for tourist accommodation. According to the Plan of Management, maintenance of rooms is the responsibility of the residents and maintenance of the property is the responsibility of the development. The Plan of Management is enforced by the boarding house's Manager, and by conditions of consent, should this application be approved. The proposed development has been reviewed by Council's Building Assessment - Fire and Disability team, who raised no objections. Residents are allowed to keep pets on site at the discretion of the boarding house's Manager.

Local Services / Infrastructure

Objections raised concern that the subject site and proposed density are not supported by adequate local infrastructure, services or public transport, and that the development is not sustainable in the locality.

Comment:

The subject site is located within walking distance of the local shopping strips along Sydney Road, and within a short drive or bus trip of the centres of Manly and Seaforth. The subject site is located within 400m walking distance of a bus stop used by regular bus services (including to Chatswood, Manly, North Sydney and the city) in accordance with the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. As such, the site is adequately located in relation to infrastructure, services and public transport, and is sustainable.

Inconsistency with Policy / Non-Compliance

Submissions raised concern that the proposed development is not compliant with the floor space ratio set by Clause 4.4 Floor Space Ratio of the MLEP 2013 or the minimum dwelling density of 1 dwelling per 250 square metres set by Clause 4.1.1.1 Residential Density and Dwelling Size of the MDCP 2013. Submissions also raised concern that the proposed development is inconsistent with the *State Environmental Planning Policy (Infrastructure) 2008*, and that it did not address the Australian Standards for demolition.

Comment:

The proposed development provides a compliant floor space ratio in accordance with Clause 29 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The dwelling density set by Clause 4.1.1.1 of the MDCP 2013 applies to dwellings, and not to boarding houses. The proposed development is acceptable in relation to the *State Environmental Planning Policy (Infrastructure) 2008* for the reasons detailed in the section of this report relating to that Policy. Should the application be approved, conditions of consent can be applied to ensure the development complies with all relevant Australian Standards.

View Loss

A number of submissions raised concern that the proposal will result in view loss, and will impact on district views.

Comment:

The proposed development is acceptable in relation to view loss for the reasons detailed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the MDCP 2013.

Economic Impacts

Submissions raised concern that the rooms will be rented for an amount that is not affordable, and that the demand for the housing has not been established. Objectors were also concerned that the developer may sell units on, or rent the rooms for the purpose of a bed and breakfast operation or for tourist accommodation.

Comment:

The property market will set the rate for rental prices, as there is no legislation capping rental prices for this development. The market will also dictate the residents of the boarding house. The proposed development relates to a boarding house, not a bed and breakfast operation or tourist accommodation. Should this application be approved, any change of use that is not considered exempt or complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* will require separate future application to Council.

Supporting Plans

Submissions raised concern that the plans were inaccurate and did not provide enough detail in relation to air conditioning units, hot water systems and other plant.

Comment:

The submitted plans provide adequate detail for the assessment of the proposed development. Should the proposed development be found worthy of approval, conditions of consent may be applied to ensure any mechanical plant is suitably located so as not to cause any unreasonable impacts on adjoining properties.

Fire Safety

Submissions raised concern that the internal cooking facilities were present an unreasonable fire risk.

Comment:

The proposed development has been reviewed by Council's Building Assessment - Fire and Disability team, who raised no objections.

Support

One submission demonstrated support for the proposed development.

Comment:

Noted.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health	General Comments



Internal Referral Body	Comments
(Industrial)	<p>Proposed 126 person boarding house (51 double rooms and 24 single rooms) Environmental Health has reviewed the proposal and has the following issues :</p> <ol style="list-style-type: none"> 1. Noise from extensive rock excavation; Although an acoustic assessment has been carried out , the time it is going to take for the extensive excavation (some 9.4m deep) is likely to lead to nuisance and complaints 2. Garbage trucks inside the garage area and the "need to close the door for service" (Acoustic Recommendation); This may have practical issues of operational compliance in the ability of trucks to service inside (size and method of lifting bins) and if fire detectors are present .These alarms may be triggered and also fumes to any residents in the car park at the time with the door (although with some noted openings) being closed. 3. BBQ area -intensive use, noise and potential smoke and odour ; Unknown impact to adjoining internal and external residents. 4. Management Plan adequacy; Need to have a comprehensive plan to avoid potential noise issues 5. Removal and disposal of Asbestos/paint from demolition; Compliance with consultants recommendations <p>These above issues can be dealt with by way of conditions with the exception of extensive (some 9.4m deep) excavation noise (and to a lesser extent vibration) which is expected to lead to complaints despite noise reduction intentions especially due to the expected duration of the work.</p> <p>It is therefore recommended if possible that the applicant agree to, or a special condition be imposed that ; before excavation/rock cutting commences a meeting with likely affected neighbours by the builder/aplicant, where the intended program of rock removal and noise reduction measures be outlined and residents be part of an (email or phone) electronic notification system(and feed back) in advance (24hrs min) of the noisiest work times (and likewise any no work days) so they have the opportunity where possible of not being present during this potentially lengthy process. Many Councils and this Council have found this effective in reducing complaints as residents can often reschedule to minimize impact and aware of a start and finish time/day. and job duration.</p> <p><u>Assessing Officer's Comment:</u> The above comments do not warrant refusal of the application.</p>
Landscape Officer	<p>The landscape component of the proposal, in it's current form, is not acceptable, with the following concerns raised:</p> <ul style="list-style-type: none"> • Inadequate landscape treatment, including substantial tree planting, commensurate with the size of the development, to reduce the bulk and scale of the development and its built form dominance to the streetscape and surrounding properties, as a



Internal Referral Body	Comments
	<p>result of a reduced front setback,</p> <ul style="list-style-type: none">• Capacity of the landscape areas along the side boundaries to support appropriate tree and screening planting, with soil volume area interrupted and impacted by built structures including paths, walling and stairs. The Manly Development Control Plan defines landscaped area as: part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP2013, section 3: General Principles of Development, section 4: Development Controls and Development Types, and the State Environmental Planning Policy (Affordable Rental Housing).</p> <p>State Environmental Planning Policy (Affordable Rental Housing), Division 3, clause 29 (b) requires that the landscape treatment of the front setback area is compatible with the streetscape.</p> <ul style="list-style-type: none">• Concern is raised that the built form of the frontage walling, basement entry and cafe at street level as illustrated on drawing A01.00 (A) and the limited landscape setback on Level 01 as illustrated on drawing A01.01 (A), fails to provide adequate landscape area to allow for the establishment of tree and screening vegetation to integrate the development into the streetscape character. The landscape outcome as illustrated on the Landscape Plans LA-DA06 to LA-DA10 results in the built form / development height dominating the streetscape, with inadequate tree and screening vegetation to soften the development. <p>The following Manly Development Control Plan 2013 controls are not satisfied:</p> <p><i>3.3.1 Landscaping Design</i></p> <p><i>b) Planting criteria including Native Plant Species and Amenity</i></p> <p><i>i) Landscaped Areas must be capable of supporting new native tree species that are typically expected to reach a mature height of 10m notwithstanding the minimum dimension requirements at paragraph 4.1.5.2 of this plan.</i></p> <ul style="list-style-type: none">• Concern is raised that the landscape proposal for tree planting on-slab to provide softening to the built form is not achievable, excluding the central courtyard area, with insufficient soil volume provided for planting. Tree planting as proposed to the on-slab planters are not sufficient in soil volume and thus the capacity of the planters to support vegetation is reduced to smaller vegetation such as shrubs. Typically, medium sized trees (9-12m high) require 35 cubic metres of soil, and small



Internal Referral Body	Comments
	<p>trees (6-8m high) require 15 cubic metres of soil (source: NSW Apartment Design Guide 2015), to support root and canopy growth in the long term.</p> <p>3.3.3 Footpath Tree Planting <i>The installation of footpath trees is supported to satisfy the aims of the former Manly Council's Tree Management Policy 2011</i></p> <ul style="list-style-type: none"> No street tree planting is proposed to provide softening of the built form. <p>4.1.4.1 Street Front setbacks <i>b) a minimum 6m front setback generally applies.</i> <i>d) Projections into the front setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, chimneys, meter boxes and the like, where no adverse impact on the streetscape or adjoining properties is demonstrated to Council's satisfaction.</i></p> <ul style="list-style-type: none"> Concern is raised that the built form of the frontage walling, basement entry and cafe at street level within the front setback creates a visual and physical impact upon the landscape amenity of Sydney Road and fails to integrate the development into the streetscape character. <p>4.1.5.2 Landscaped Area <i>Minimum Dimensions and Areas</i> <i>b) Minimum dimensions and areas must provide for the following:</i> <i>i) soil depth of at least 1m for all landscaped areas either in ground or above ground in raised planter beds</i></p> <ul style="list-style-type: none"> Clarification is required that all on-slab planters used for the landscape area calculation are a minimum of 1.0m depth, as concern is raised that planters as proposed in areas do not achieve this requirement, and thus the landscape amenity and capacity to soften the built form is diminished. It is noted that the rooftop planter is shallow in depth and can't be used for landscape area calculations. <p><u>Assessing Officer's Comment:</u> The above comments have been incorporated as reasons for refusal of the application.</p>
NECC (Development Engineering)	<p>The application has been assessed. However, Development Engineer cannot support the application:</p> <p>On site stormwater detention system (OSD): The OSD has a "drowned" orifice at RL 46.52 which is connected to a 700 mm deep stormwater pit on Sydney Road.</p>



Internal Referral Body	Comments
	<p>The invert level of the pit is RL 46.41. It is unacceptable to Council due to the affect on the rate of the discharge from the OSD system.</p> <p>The applicant shall amend the OSD to ensure the design in comply with Council's Manly Specification for on site Stormwater Management 2003.</p> <p>Stormwater pit on Sydney Road: Development Engineer has inspected the stormwater pit on Sydney Road. However, there is no outlet pipe can be found in the pit. It is uncertain the pit can be the discharge point. Council does not has the detail of the pit as it is owned by RMS. The applicant shall clarify and demonstrate the pit can accommodate the additional discharge from the proposed development. Alternatively, the applicant shall amend the design to discharge the on site stormwater into kerb & gutter on Sydney Road.</p> <p>As the above, Development Engineer cannot support the application.</p> <p><u>Assessing Officer's Comment:</u> The above comments have been incorporated as reasons for refusal of the application.</p>
Strategic and Place Planning (Urban Design)	<p>Advice was provided to the applicant in the pre lodgement meeting relating to the mass and built form, articulation and street/urban interface.</p> <p>Several recommendations were made to assist the applicant to reduce the built form to a development that would sit contextually within the local neighbourhood and existing patterns of development. Whilst Council acknowledges a number of issues raised in the meeting have been addressed, the following assessment of the proposed development re-iterates the initial concerns and provides recommendations to further address the over development of the site.</p> <p>The proposed cannot be supported for the following reasons;</p> <p>1. General Design and Site Planning Comments/Recommendations</p> <p>PRE LODGEMENT ADVICE/RECOMMENDATIONS The two main internal courtyards that run east/west are generally supported. Further green landscaped courtyards/fingers that run north/south through the site are recommended in order to break down the massing on site. Currently the site planning and unit distribution runs east west with no relief or separation between the banks of four and banks of seven units. It is recommended the maximum number of units sharing parti walls is a bank of three units maximum (from the seven unit banks). For the bank of four larger units that sit centrally in the site it is</p>



Internal Referral Body	Comments
	<p>recommended these also provide some landscaping elements; pathways or seating /pocket parks between them with the max number of semi-detached dwellings being two larger units to a bank. This would assist to reduce the bulk of the building mass viewed from the street or adjacent properties.</p> <p>The significant height and slope of the site serves only to amplify the height of development on the site, so planning strategies to break down the visual bulk of the development are generally supported.</p> <p>DA COMMENTS</p> <p>The Council recommendation required the built form to broken down to 8 x pavilions across the site with building separation to ground level. This would result in a reduced built form impact, mass and bulk and relate contextually to the existing pattern of development in the area.</p> <p>As is demonstrated on the drawings deletion of the units at the front of the site creating a 'slot' through the mass has released the building elevation from its bulky form and mass at the upper level of Block A only. The communal room on the lower level with additional built form above defeats the purpose of opening up the ground plane of the site and as such is not supported.</p> <p>The communal room should find another location in order that the built form retain and strengthen the building separation and subsequent amenity and relief of bulk and mass to this block.</p> <p>The development has still to demonstrate a contextual connection to the greater neighbourhood demonstrating through site visual connections which will have a grounding effect for residents and provide internal amenity to the fine grain urban interface. There are oblique aspects to the development to anyone travelling east or west on Sydney Road, the mass and bulk of the entire site which will be readily present in these views and aspect.</p> <p>The blocks to the middle and the rear / south of the site still present as large monolithic blocks. Breaking up of the mass as discussed in the Pre lodgement meeting (refer note above) would improve solar amenity to the relevant apartments and provide view aspects from the back of the site through to the street frontage.</p> <p>Council recommends the deletion of B203 and B204 (Level 3 Units 303 and 304 and Level 4 Units B403 and B404 and a 3m wide separation between Units B 502 and B 503) . Similarly either of Units A208 or A209 (including units above) should also be deleted to provide this through site link.</p> <p>Council acknowledge the uptake of most recommendations to provide a more fine grain urban design response by the applicant, however the deletion of further units as noted above would provide a whole of site response rather than just addressing the few units to the site frontage.</p> <p>The building is effectively in the round given the site typography and location in the context of neighbouring properties which places</p>



Internal Referral Body	Comments
	<p>additional impetus on the development to the provision of good design outcomes.</p> <p>2. Private Open Space for Boarding Houses <i>Private open space for boarding houses is to be provided in accordance with the following minimum specifications; The areas are to receive a minimum of 3 ours direct sunlight between 9am and 3pm in midwinter.</i></p> <p>PRE LODGEMENT ADVICE/RECOMMENDATIONS There are a number of units in the centre of the site which have private open spaces oriented to the south. The units would benefit from flipping the orientation of the private open space to the north to optimise solar gain in the winter months. This would also assist to avoid any overlooking of private space issues internal to the site from the higher sited units looking down across the site and toward the north.</p> <p>DA COMMENTS It is noted that the units are still oriented with private open space to the south. Council recommends the planning be addressed to orient these units to the north to achieve improved visual and solar amenity for residents.</p> <p>3. ADDITIONAL CONCERNS</p> <p>Design Compliance Report Concerns are also raised with several comments in the independent consultants' Design Compliance Report (5.10.2018) submitted alongside the Development Application; 1. The resolution of the material/external cladding selections and compliance, as identified by the Independent Consultant, and the resultant effect upon the current design and articulation of the built form. 2. Exit travel distances and the resultant re-design or changes required to accommodate safe egress, as indicated by the Independent Consultant, and the resultant effect on the mass and bulk of the buildings.</p> <p><u>Assessing Officer's Comments:</u> The proposed development provides adequate articulation and relief to the visual impact resulting from the proposed building bulk in the following ways:</p> <ul style="list-style-type: none">• The proposed development is formed by two buildings (Buildings A and B), separated by a large courtyard, rather than one large building centralised on the site;• The large courtyard provides a minimum of 8.8m separation between Buildings A and B, providing visual relief to adjacent properties;• Buildings A and B are broken up again with east-west corridors for circulation;



Internal Referral Body	Comments
	<ul style="list-style-type: none">• Building A is further broken up to the street frontage with a north-south break, giving the development the appearance of being two (albeit large) dwellings;• Buildings A and B provide compliant (and, in points, greater than required) setbacks to the east and west side boundaries; and• The proposed development includes a mix of materials and finishes, including sandstone, timber, glazing, louvres, metals, and concrete (perforated and smooth), which assist in reducing the visual impact of the built form. <p>As such, the design changes detailed in the referral comments above (being the slot/through site link and deletion of rooms) are not considered necessary.</p> <p>Notwithstanding the above, the proposed development is unacceptable in relation to bulk and scale with regard to the non-compliant rear setback, which presents unreasonable visual imposition to neighbouring properties, and the landscape treatment to the front setback area, which is inconsistent with the streetscape.</p>
Traffic Engineer	<p>The subject application relates to the demolition of all existing buildings, consolidation of two (2) separate lots and the construction of a 6-storey boarding house development consisting of:</p> <ul style="list-style-type: none">• 75 boarding rooms including a manager's room;• Two (2) levels of parking accommodating a total of:<ul style="list-style-type: none">• 38 x car parking spaces;• 15 x motorcycle parking spaces;• 15 x bicycle parking spaces;• 1 x 6.4 metre SRV service vehicle bay;• A 6.5 metre wide combined entry / exit driveway onto Sydney Road. <p><u>Parking:</u> Parking rates are compliant with the relevant Controls being the SEPP and DCP. No objection is raised in this regard.</p> <p><u>Pedestrians:</u> The applicant is to upgrade the public domain (Footpath and, where necessary, kerb and gutter) for the full length of the frontage. This shall be conditioned as part of the consent if approved.</p> <p><u>Servicing:</u> The applicant is to ensure a Loading Bay Management Plan is made available to all tenants. This will be conditioned as part of the consent if approved. Council's Waste Services Team must confirm the acceptance of a contract waste service provider. Adequate height clearance will be required throughout level 00. A minimum 3.5m is deemed necessary to accommodate most SRV vehicles of 6.4m long.</p> <p><u>Car Park Layout:</u> The applicant is to ensure the car-park is in compliance with AS</p>



Internal Referral Body	Comments
	<p>2890.1:2004 including all ramp grades, transitions, parking dimensions, etc. A normal driveway profile is required to access the site. All vehicles are to be able to enter and exit the site in forward direction.</p> <p>Traffic: The applicant has utilised a trip generation rate of 0.2/dwelling. This type of development would be deemed a medium density dwelling, as specified in the Traffic Consultants report. As such, the rate should be applied at 0.4 vehicles per dwelling in the peak hour. A total of 30 vehicles can be expected. An assessment of the immediate intersections beyond the site should be assessed to ensure that the additional vehicles are not causing further congestion to Sydney Road and hence causing a further depreciation of the level of service of local intersections. The intersections that should be reviewed are as follows:</p> <ul style="list-style-type: none">• The access and Sydney Road• Sydney Road and Hill Street <p>These shall be modeled in SIDRA and all digital files and output data sheets submitted to Council's Traffic Engineer for review.</p> <p><u>Assessing Officer's Comment:</u> The above comments in relation to traffic generation have been incorporated as reasons for refusal of the application.</p>
Waste Officer	Council's Waste Officer did not raise any objections to the proposal, subject to conditions of consent.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Integrated Development - NSW Roads and Maritime Services (Works on classified road where Council is not the consent authority)	<p>The NSW Roads and Maritime Services has commented on the proposal as follows:</p> <p><i>Reference is made to Council's correspondence of 30 October 2018, concerning the development application which was referred to Roads and Maritime Services (Roads and Maritime) for concurrence under Section 138 of the Roads Act, 1993.</i></p> <p><i>Roads and Maritime has reviewed the development application and would provide concurrence to the proposed vehicular crossing on Sydney Road under Section 138 of the Roads Act 1993, subject to Council's approval and the following requirements being included in the development consent:</i></p> <ol style="list-style-type: none">1. <i>Roads and Maritime has previously resumed and dedicated a strip of land as road along the Sydney Road frontage of the subject property, as shown by grey colour on the attached Aerial – "X". Therefore, all buildings and structures, together with any improvements integral to the future use of the site are</i>



External Referral Body	Comments
	<p>wholly within the freehold property (unlimited in height or depth), along the Sydney Road boundary.</p> <p>2. Any redundant driveway along Sydney Road shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb & gutter and the gutter crossing on Sydney Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au. Detailed design plans of the proposed kerb & gutter and the gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by Roads and Maritime.</p> <p>3. In accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking), the driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary.</p> <p>4. All vehicles are to enter and leave the site in a forward direction. Therefore, the swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.</p> <p>5. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Documents should be submitted to Development.Sydney@rms.nsw.gov.au. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.</p> <p>6. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system in Sydney Road are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Documents should be submitted to Development.Sydney@rms.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.</p>

External Referral Body	Comments
	<p><i>In addition to the above, Roads and Maritime provides the following advisory comments to Council for consideration in its determination of the development application:</i></p> <ol style="list-style-type: none"> 1. <i>A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.</i> 2. <i>Sight distances from the proposed vehicular crossings to vehicles on Sydney Road are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.</i> 3. <i>All vehicles are to be wholly contained on site before being required to stop. In this regard the driveway may be splayed on entrance.</i> 4. <i>All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.</i> 5. <i>A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Sydney Road during construction activities.</i> <p><u>Assessing Officer's Comment:</u> Should the application be found worthy of approval, the above can be added as conditions of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant

period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

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

Division 3: Boarding houses

Clause 25: Definition

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

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

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

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

Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	Consistent The subject site is located within the R1 General Residential and, as such, the proposed use is permissible with consent under MLEP 2013.

Clause 27: Development to which this Division applies

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

Requirement	Comment
(2) Despite subclause (1), this Division does not DA2018/1708	Consistent



<p>apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>Note: Accessible area means land that is within:</p> <p>(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>	<p>The site is located within the R1 General Residential zone and is situated not more than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	<p>Not applicable. The site is located within the Sydney region.</p>

Clause 28: Development may be carried out with consent

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

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
<p>(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:</p>	<p>(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</p> <p>(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted</p>	<p>A floor space ratio of 0.6:1 applies to this site under Clause 4.4 Floor Space Ratio of the MLEP 2013. The subject site is located within the R1 General Residential zone, which permits residential flat buildings with consent. The subject site is not heritage listed, nor does a heritage order apply on site. As such, the</p>	<p>Compliant</p>



	<p>on the land, or</p> <p>(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p>	<p>subject site is eligible for an additional 0.5:1 floor space ratio. The maximum floor space ratio on site becomes 1.1:1 (1967.9sqm). The proposed development has a floor space ratio of 1.064:1.</p>	
<p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p>			
<p>(a) building height</p>	<p>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p>	<p>The maximum height of building applying to the site under Clause 4.3 Height of Buildings of the MLEP 2013 is 8.5m. The maximum height proposed is 8.5m.</p>	<p>Compliant</p>
<p>(b) landscaped area</p>	<p>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p>	<p>The proposed development does not include landscape treatment to the front setback area that is compatible with the streetscape. It includes conspicuous front walls and a cafe in the front setback, and inadequate vegetation. The Sydney Road streetscape includes development in</p>	<p>Inconsistent</p>



		landscaped settings and the proposed development is inconsistent with this existing landscaped setting.	
(c) solar access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The proposed development includes three communal living rooms. Each living room receives at least three hours of direct sunlight between 9am and 3pm in midwinter.	Compliant
(d) private open space	if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20m ² with a minimum dimension of 3.0m is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m ² with a minimum dimension of 2.5m is provided adjacent to that accommodation,	(i) The proposed development includes a courtyard of over 200sqm with a minimum dimension of 8.8m for use of the lodgers. (ii) The proposed development includes a boarding house manager. The boarding house manager's room includes private open space of 10sqm with dimensions of greater than 2.5m accessible from the living area of the room.	Compliant
(e) parking	if: (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and (ii) in the case of development carried out by or on behalf of a social housing provider	The proposed development is not being carried out by a social housing provider. A parking rate of 0.5 spaces per boarding room plus not more than one space for each person employed in connection with the development applies. 75 rooms requires 37.5 spaces, which rounds to 38 spaces. The proposal includes 38 spaces, including not more than	Compliant



	<p>not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>one for the manager.</p>	
(f) accommodation size	<p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>The proposed development includes single and double rooms of at least 16 square metres (and up to 21 square metres), excluding private bathroom and kitchen facilities.</p>	<p>Compliant</p>
	<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>The proposed development includes private bathroom and kitchen facilities in each room.</p>	<p>Compliant</p>
	<p>(4) A consent authority may consent to development to which this Division applies whether or not the</p>	<p>The proposed development complies with the standards set out in subclauses (1) and (2).</p>	<p>Compliant</p>



	development complies with the standards set out in subclause (1) or (2).		
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Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	The proposed development includes 75 rooms including one managers room. The proposal includes three communal rooms.	Compliant
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m ² ,	The proposed development includes rooms to a maximum area of 21sqm (excluding private bathroom and kitchen facilities).	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	The maximum number of lodgers in each room is two.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room contains private bathroom and kitchen facilities.	Compliant
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	The proposed development includes 75 rooms for up to 126 residents. A room for the manager is included on site.	Compliant
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	Not applicable. The subject site is zoned R1 General Residential.	Not applicable
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	The proposed development includes 75 rooms, requiring 15 bicycle and 15 motorcycle spaces. The proposed development provides 15 bicycle and 15 motorcycle spaces.	Compliant.
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions	Subclause (1) applies as the proposal is for the construction of a boarding house.	Applicable

to an existing boarding house.

Clause 30: Character of the local area

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

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

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

Comment:

The proposed boarding house is up to six storeys in height (including up to three basement storeys). No more than three storeys are above ground at any one point. The streetscape along Sydney Road consists of a mix of development types, including residential flat buildings, town houses, semi-detached dwellings, and single dwelling houses. These developments range in height from single-storey to four storeys. Development in the vicinity of the subject site (visible from the Sydney Road frontage) includes residential flat buildings up to ten and twelve storeys in height. The proposed development is compliant with the maximum building height of 8.5m, and is predominantly well below the limit. However, development in this portion of the Sydney Road streetscape is within a landscape setting and the proposed development does not provide adequate softening to the built form visible from the street through landscaping. In this regard, it is considered that the scale of the development is compatible with the streetscape and consistent with the first principle, with the exception of in relation to the front setback area.

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

Comment:

The proposed development is formed by two main buildings, being Building A fronting Sydney Road and Building B to the rear of the lot. Buildings A and B are separated by a large landscaped courtyard at the centre of the site, which provides a minimum of 8.8m between the two blocks. This in turn provides visual relief to the development for adjacent properties. Buildings A and B are broken up again with east-west corridors for circulation. Building A is further broken up to the street frontage with a north-south break, giving the development the appearance of being two (albeit large) dwellings. In this regard, the development is considered to be compatible with the scale of surrounding development and consistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing*

vegetation around a site's edges to destroying it and planting new vegetation.

Comment:

The subject site slopes relatively steeply from the rear (south) to the front (north). As such, the proposal includes earthworks which reduces the visibility of the development from the street. The subject site contains significant vegetation that is predominantly to be removed. The Sydney Road streetscape is characterised by landscaped front setbacks and natural features (rock outcrops). The proposed landscape treatment of the front setback area is not compatible with the Sydney Road streetscape in that it includes conspicuous terraced walls, a cafe within the front setback, and inadequate tree planting in the front setback commensurate to its scale and form. In this regard, it is considered that effective methods have been employed in the design of the development to reduce its visual dominance in terms of the topography, but not in terms of vegetation and the proposed development is inconsistent with the third principle.

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

Comment:

The existing streetscape along Sydney Road includes a mix of building materials and finishes, including sandstone, cladding, brick, rendering and timber. The proposed development includes a mix of materials and finishes, including sandstone, timber, glazing, louvres, metals, and concrete (perforated and smooth). These materials form a modern architectural style, while providing consistency with existing materials and finishes within the streetscapes. In this regard, the development is considered to be consistent with the fourth principle.

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

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

Comment:

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

Constraints on the development potential of surrounding sites

The proposed development is adequately set back from the side boundaries, though presents an unreasonable rear setback, which may unreasonably constrain the development potential of adjoining sites.

Privacy

The proposed development is acceptable in relation to privacy as it is consistent with the requirements of Clause 3.4.2 Privacy and Security of the MDCP 2013, and provides adequate side setbacks (including a landscaping), privacy screening to key openings and balconies, and ground levels commensurate to adjacent properties.

Overshadowing

The proposal results in moderate overshadowing to the west in the early morning and to the east in the late afternoon. However, this overshadowing impact is not long-lasting or unreasonable, given its north-south orientation of the site.

Noise

The proposed development is supported by an Acoustic Report, demonstrating that the proposal does not result in unreasonable acoustic impacts, particularly considering the site has only one single dwelling residential neighbour, with the remainder being residential flat buildings. Additionally, the proposal is supported by a Plan of Management, detailing how the boarding house (including any noise impacts) will be managed.

Conclusion to Character Assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal is incompatible with the character of the local area and surrounding wider locality in relation to the landscape treatment of the front setback. This matter warrants the refusal of the Development Application.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 968134M dated 12 October 2018). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	50
Thermal Comfort	Pass	Pass
Energy	25	35

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.

Manly Local Environmental Plan 2013

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	Max. 8.5m	N/A	Yes
Floor Space Ratio	1.1:1 (0.6:1 under MLEP 2013 plus 0.5:1 under SEPP ARH) (1967.9qm)	1.064:1 (1,903sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	No
6.8 Landslide risk	Yes
6.12 Essential services	No

Detailed Assessment

Zone R1 General Residential

The proposed development includes a cafe, which is a prohibited use in the R1 General Residential zone under the Land Use Table of the Manly LEP 2013. This forms a reason for refusal. The proposal also includes a boarding house, which is a permissible use with consent in the R1 General Residential zone under the Land Use Table of the Manly LEP 2013.

6.4 Stormwater management

The proposed onsite detention system is unacceptable and does not comply with Manly Specification for Onsite Stormwater Management 2003 due to its rate of discharge. No stormwater outlet pipe can be found in the Sydney Road pit. The proposal does not demonstrate that the pit can accommodate resulting additional discharge. This forms a reason for refusal.

6.12 Essential services

The proposed onsite detention system is unacceptable and does not comply with Manly Specification for Onsite Stormwater Management 2003 due to its rate of discharge. No stormwater outlet pipe can be found in the Sydney Road pit. The proposal does not demonstrate that the pit can accommodate

resulting additional discharge. This forms a reason for refusal.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1,789sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	West: 7.6m (based on gradient 1:5.5)	9.1m	19.73%	No
	East: 7.5m (based on gradient 1:6)	8.4m	12%	No
4.1.2.2 Number of Storeys	2	6 (including up to 3 basement storeys)	200%	No
4.1.2.3 Roof Height	Height: 2.5m	Flat	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	0-5.4m, consistent with prevailing setback	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	West: 3.03m (based on wall height)	3.32m	N/A	Yes
	East: 2.8m (based on wall height)	3.3m	N/A	Yes
	Windows: 3m	Min. 3m	N/A	Yes
4.1.4.4 Rear Setbacks	8m	5.7m	28.75%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total open space: Min. 55% of site area (983.95sqm)	63.73% (1,140.3sqm)	N/A	Yes
	Open space above ground: Max. 40% of total open space (649.32sqm)	33.3% (542sqm)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of total open space (568.15sqm)	43.2% (492.4sqm)	N/A	Yes
	3 native trees	>3 trees	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	5.8m (<50% frontage)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	No	No



Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	No	No
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	No	No
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	No	No
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	No
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
4.4.9 Boarding Houses	Yes	Yes
4.4.9.1 Communal Rooms and Areas	Yes	Yes
4.4.9.2 Bedrooms	Yes	Yes
4.4.9.3 Open Space	Yes	Yes
Schedule 7 – Part A – Boarding Houses	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes

The proposed development does not provide adequate landscaping to the front setback area. An

assessment of the proposal against the relevant objectives of this clause is as follows:

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

Comment:

The proposed development does not include adequate landscaping within the front setback to minimise the visual impact of the walls on the street frontage. The proposal includes sandstone walls across the entire frontage of the site (with the exception of the solid garage door), ranging in height from 1.8m-5.1m. The walls are set between 0m to 4.7m of the front boundary.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Comment:

The Sydney Road streetscape is characterised by landscaped front setbacks and natural features (rock outcrops). The proposed landscape treatment of the front setback area is not compatible with the Sydney Road streetscape in that it includes conspicuous terraced walls, a cafe within the front setback, and inadequate tree planting in the front setback commensurate to the scale and form of the development.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Comment:

Front fences and walls are appropriate in the streetscape along Sydney Road, subject to appropriate softening through landscaping. The proposed development does not incorporate adequate landscaping along the street frontage commensurate to its scale and form.

The proposal does not adequately complement the identified streetscape, which contains by landscaped front setbacks and natural features (rock outcrops). The above forms a reason for refusal.

3.3.1 Landscaping Design

The proposed development does not provide adequate landscaping to the front setback area. An assessment of the proposal against the relevant objectives of this clause is as follows:

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.

Comment:

The Sydney Road streetscape is characterised by landscaped front setbacks and natural features (rock outcrops). The proposed landscape treatment of the front setback area is not compatible with the Sydney Road streetscape, in that it includes conspicuous terraced walls, a cafe within the front setback, and inadequate tree planting in the front setback, commensurate to its scale and form.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.

Comment:

The proposed development predominantly removes existing vegetation on site. The proposed development provides substantial compensatory landscaping on site to support populations of flora and fauna, with the exception of within the front setback area.

The proposal does not include appropriate tree planting to the street frontage, inconsistent with the objectives of Clause 3.3.1 Landscaping Design. The above forms a reason for refusal.

3.4.2 Privacy and Security

The proposed development is compliant with the requirements of Clause 3.4.2 Privacy and Security of the MDCP 2013. However, a number of submissions have been received objecting to potential privacy impacts resulting from the proposed development. As such, an assessment of the proposal against the relevant objectives of this clause is as follows:

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings;*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

The proposed development provides privacy through design elements. The proposal includes side setbacks in excess of the minimum requirements of Clause 4.1.4 Setbacks of the MDCP 2013, and avoids windows orientated to the side. Instead, windows and private open spaces to individual rooms are oriented to the front and rear of the subject site. Additionally, these individual private open spaces are screened to the side elevations where they are adjacent to existing residential developments to the east and west. As such, the proposed development is designed to mitigate direct overlooking and provides appropriate privacy for the subject site and surrounds.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

Given the above at Objective 1, the proposed development retains adequate privacy for the residential developments to the east and west, while allowing sufficient access to light and air, and balancing of views.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed development includes windows and balconies to the street frontage, thereby encouraging neighbourhood security by passive surveillance.

3.4.3 Maintenance of Views

The proposed development is compliant with the requirements of Clause 3.4.3 Maintenance of Views of the MDCP 2013. However, a number of submissions have been received objecting to potential view loss impacts resulting from the proposed development. Specifically, the view loss objections relate to Units 3, 10, 11 and 14 of 189 Sydney Road (to the east of the subject site) and Unit 2 of 199 Sydney Road (to the west of the subject site). As such, an assessment of the proposal against the relevant objectives of this clause is as follows:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Comment:

An assessment of view loss has also been undertaken with reference to the Views Principle established by the NSW Land and Environment Court as follows:

"The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured."

Comment to the First Step:

From each of the relevant units at 189 Sydney Road, the affected view is of the Fairlight district. In each case, the view is obscured by existing development and vegetation. From the relevant unit at 199 Sydney Road, the affected view is of the subject site and the sky. The affected views at both 189 and 199 Sydney Road do not contain any water or iconic views. See photographs from each property below:



View from Unit 3, 189 Sydney Road from the centre of the west-facing balcony, looking west, from a standing position.



View from Unit 10, 189 Sydney Road from the western end of the north-facing balcony, looking north-west, from a standing position.



View from Unit 11, 189 Sydney Road from the western end of the north-facing balcony, looking north-west, from a standing position.



View from Unit 14, 189 Sydney Road from the western end of the north-facing balcony, looking north-west, from a standing position.



View from Unit 2, 199 Sydney Road from the southern dining room, looking south-west, from a standing position.

"The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic."

Comment to the Second Step:

The views from each affected unit are available as follows:

- Unit 3/189 Sydney Road: Looking west across the western side boundary from the west-facing balcony, living room and kitchen, over 193 Sydney Road, from standing and seated positions.
- Units 10, 11 and 14/189 Sydney Road: Looking north-west across the western and northern boundaries from the north-facing balcony (and partially from the living room), over 193 Sydney Road, from standing and seated positions.
- Unit 2/199 Sydney Road: Looking south-west from the dining room, across the eastern side boundary, from standing and seated positions.

"The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating."

Comment to the Third Step:

Each affected unit at 189 Sydney Road is likely to lose a portion of district view. Unit 2 of 199 Sydney Road is likely to lose a portion of the view to the sky. The loss of view to the affected units is considered minor for the following reasons:

- The views are not valuable in that they are of the district or sky only and do not contain water or icons;
- The views are distant;
- The views are obtained across other properties; and
- The views are already partially (or predominantly) obscured by existing vegetation and development and are therefore vulnerable to change.

"The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable."

Comment to the Fourth Step:

The proposed development is not compliant with the required wall height, number of storeys or rear setback set by the MDCP 2013. However, the proposed development is demonstrated to be of suitable overall bulk in that it is compliant with the maximum height of building control set by the MLEP 2013 and the floor space ratio allowable under the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. To require compliant wall height and number of storeys (two) would unreasonably restrict development on the site, being that development is permitted up to 8.5m. To require a compliant rear setback would not result in any reduction in view loss, as the impact is due to the side elements of the proposed development. Further, as the view loss impact is minor, to require redesign would not be a reasonable response to the view impact. As such, it is considered that a compliant development would not result in a more reasonable or more desirable outcome in relation to view loss, and would not be a more skilful design.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

Comment:

As above in response to Objective 1, the proposed development does not unreasonably disrupt views from, to or between public or private spaces. The proposed development does not obscure views to the city, harbour, ocean, bushland, open space, landmarks or significant (valuable) buildings.

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

Comment:

The proposed development does not result in unreasonable view loss or view creep, as demonstrated above at Objective 1.

3.7 Stormwater Management

An assessment of the proposal against the relevant objectives of this clause is as follows:

Objective 1) To manage urban stormwater within its natural catchments and within the development site without degrading water quality of the catchments or cause erosion and sedimentation.

Comment:

The proposed development is not anticipated to degrade water quality, or cause erosion or sedimentation.

Objective 2) To manage construction sites to prevent environmental impacts from stormwater and protect downstream properties from flooding and stormwater inundation.

Comment:

The proposed development is supported by a Sediment and Erosion Control Plan in order to manage environmental impacts to downstream properties during construction.

Objective 3) To promote ground infiltration of stormwater where there will be no negative (environmental) impacts and to encourage on-site stormwater detention, collection and recycling.

Comment:

The proposed development is acceptable in relation to infiltration of stormwater. However, the proposed onsite detention system does not comply with Manly Specification for Onsite Stormwater Management 2003 due to its rate of discharge, and no stormwater outlet pipe for the site can be found in the existing Sydney Road pit. The proposal does not demonstrate that the pit can accommodate resulting additional discharge.

Objective 4) To make adequate arrangements for the ongoing maintenance of stormwater facilities.

Comment:

The proposed development is acceptable in terms of maintenance of stormwater facilities.

The above forms a reason for refusal.

4.1 Residential Development Controls

The proposed development is not supported in regards to Clause 4.1 Residential Development Controls of the MDCP 2013. An assessment of the proposal against the relevant objectives of this clause is as follows:

Objective 1) To delineate by means of development control the nature and intended future of the residential areas of the former Manly Council area.

Comment:

The proposed development is consistent with the intended future of the locality, being zoned R1 General Residential.

Objective 2) To provide for a variety of housing types and densities while maintaining the existing character of residential areas of the former Manly Council area.

Comment:

The proposed development contributes to the variety of housing types and densities within the Fairlight local area.

Objective 3) To ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residences, the existing environmental quality of the environment or the aesthetic quality of the former Manly Council area.

Comment:

The proposed development degrades the amenity of surrounding residences in relation the the unreasonable and non-compliant bulk to the rear. An assessment of this non-compliance is detailed in the section of this report relating to Clause 4.1.4 Setbacks of the MDCP 2013.

Objective 4) To improve the quality of the residential areas by encouraging landscaping and greater flexibility of design in both new development and renovations.

Comment:

The proposed development does not include adequate landscaping in the front setback area, as detailed throughout this report.

Objective 5) To enable population growth without having adverse effects on the character, amenity and natural environment of the residential areas.

Comment:

The proposed development assists in enabling population growth, but is not consistent with the character, amenity and natural environment of the locality for the reasons detailed throughout this report.

Objective 6) To enable other land uses that are compatible with the character and amenity of the locality.

Comment:

The residential use of the land is retained.

Objective 7) To ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increased demand.

Comment:

The proposed development is not for infrastructure, services or facilities.

The above forms a reason for refusal.

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Clause 4.1.2.1 of the MDCP 2013 requires that the maximum wall height for the subject site is 7.6m to the west and 7.5m to the east. The proposal incorporates wall heights of 9.1m to the west and 8.4m to the east. Clause 4.1.2.2 of the MDCP 2013 provides that the maximum number of storeys is 2. The proposed development is 3 storeys above ground, and 6 storeys in total. The Manly DCP 2013 refers to the height of development standard objectives at Clause 4.3 of the Manly LEP 2013. The objectives of this clause are as follows:

(a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,

Comment:

The proposed development, including the flat roof form, is consistent with and complementary to other developments within the streetscape and the locality. Despite the non-compliant wall height and number of storeys, the proposed development provides an appropriate height in the context, adjacent to several multi-storey residential flat buildings and multi-dwelling housing developments.

(b) to control the bulk and scale of buildings,

Comment:

The proposed development is compliant with the floor space ratio allowable under the *State Environmental Planning Policy (Affordable Housing) 2009*, which controls bulk and scale. Despite the non-compliant wall height and number of storeys, the bulk and scale of the proposed development are consistent with other developments in the immediate vicinity (with the exception to the proposed rear setback - see discussion in the section of this report relating to Clause 4.1.4 Setbacks of the MDCP 2013). The bulk and scale of the overall building are controlled by building breaks, articulation, and angled wall features, providing visual relief along the east and west elevations.

(c) to minimise disruption to the following:

- (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
- (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
- (iii) views between public spaces (including the harbour and foreshores),*

Comment:

The proposed non-compliant wall height and number of storeys do not result in unreasonable view loss to, from, or between private or public spaces, as detailed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the MDCP 2103.

(d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,

Comment:

The proposed non-compliant wall height and number of storeys do not result in unreasonable overshadowing impacts, as detailed in the section of this report relating to Clause 3.4.1 Sunlight Access and Overshadowing of the MDCP 2013.

(e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.

Comment:

Not applicable. The site is zoned R1 General Residential.

4.1.4 Setbacks (front, side and rear) and Building Separation

The proposed development includes a 5.7m rear setback, where 8m is required. An assessment of the proposal against the relevant objectives of this clause is as follows:

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed non-compliant rear setback does not impact upon the immediate streetscape along Sydney Road.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposal provides adequate visual privacy as detailed in the section of this report relating to Clause 3.4.2 Privacy and Security of the MDCP 2013. While the proposal does not result in unreasonable overshadowing, the proposed rear bulk and scale results in a sense of imposition and unreasonable visual impact to adjacent properties. The proposed rear setback is not visible from the streetscape, but presents inconsistency with the rhythm of buildings in the vicinity, which are developed in landscaped settings. The proposed rear setback non-compliance does not impact upon traffic conditions.

Objective 3) To promote flexibility in the siting of buildings.

Comment:

The proposed development is not adequately sited in order to provide suitable visual amenity to the adjacent sites. The proposed rear setback presents an unreasonable imposition on adjacent sites in

terms of visual bulk and scale.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposed non-compliant rear setback does not allow for adequate vegetation. As such, the proposed bulk to the rear of the property is inconsistent with the existing character of the area, being development in a landscaped setting. The subject site does not contain bushland.

Objective 5) To assist in appropriate bush fire asset protection zones.

Comment:

Not applicable. The subject site is not zoned bush fire prone land.

The above forms a reason for refusal.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

Clause 4.4.9 Boarding Houses of the MDCP 2013 provides that the rate of development contribution for boarding houses is based on the rate for 'tourist development' as defined in the Manly Section 94 Contributions Plan 2005 (amended). The current rate for tourist development is \$4,099.08 per bed. For boarding houses the tourist development rate is multiplied by the average occupancy rate of 1.4 persons per boarding room; that is, $\$4,099.08 \times 1.4 = \$5,738.712$ per boarding room. Should the proposed development be found worthy of approval, a condition of consent can be applied accordingly.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Sydney North Planning Panel, as the consent authority REFUSE Development Consent to Development Application No DA2018/1708 for the Demolition works and construction of a boarding house on land at Lot 2 DP 589654, 197 Sydney Road, FAIRLIGHT, Lot 87 DP 1729, 195 Sydney Road, FAIRLIGHT, for the reasons outlined in Attachment 1.

ATTACHMENT 1

1. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 in relation to the character of the local area and the landscape treatment of the front setback.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone R1 General Residential of the Manly Local Environmental Plan 2013 as it includes a prohibited use, being a cafe.
4. 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 6.4 Stormwater Management of the Manly Local Environmental Plan 2013.
5. 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 6.12 Essential Services of the Manly Local Environmental Plan 2013 in relation to stormwater drainage and onsite conservation.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.1 Streetscapes and Townscapes of the Manly Development Control Plan in relation to the landscape treatment of the street frontage.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.3.1 Landscaping Design of the Manly Development Control Plan in relation to the landscape treatment of the front setback.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.7 Stormwater Management of the Manly Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1 Residential Development Controls of the Manly Development Control Plan in that it results in a built form that is inconsistent with the character, amenity and natural environment of the area.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly Development Control Plan in relation to the rear setback.