

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0166
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Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 40 DP 7027, 532 Pittwater Road NORTH MANLY NSW 2100
Proposed Development:	Demolition works and construction of a Boarding House pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Ali Mehfooz
Applicant:	Ali Mehfooz

Application Lodged:	11/03/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	24/03/2021 to 14/04/2021
Advertised:	Not Advertised
Submissions Received:	19
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 900,000.00
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Executive Summary

The proposal is for a Boarding House with 10 lodger rooms (including a managers room) and is referred to the *Northern Beaches Local Planning Panel* for determination as the development application received more than 10 submissions. The proposal has been lodged pursuant to *SEPP (Affordable Rental Housing) 2009* and except for some minor elements the design satisfies the SEPP controls. The non-compliances with the SEPP are recommended to be addressed by conditions as they relate to minor elements of balcony width and manager accommodation.

The proposal includes a minor non-compliance with the side boundary envelope, front boundary

setback and wall height built form controls of the *Warringah Development Control Plan 2011*, but on merit consideration the variations are supported. With regard to issues raised within public submissions the principle concerns relate to the type of occupancy, existing urban character, privacy (visual & acoustic), traffic, parking, operational management and location / setting. Subject to conditions, the proposal addresses the submission issues and satisfies internal referral requirements of Council; including conditions relating to waste services, stormwater management, landscaping, traffic safety and building accessibility.

The design of the proposal is supported for approval as it is considered to satisfy the relevant planning controls, including the 'character test' in terms of the low density residential environment and maintaining a landscape setting within detached style housing development that is suitable for the location along Pittwater Road.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks development consent for the construction of a part two/part three-storey Boarding House, (pursuant to SEPP (Affordable Rental Housing) 2009), containing 10 boarding rooms (including one accessible room) configured as:

- **Ground Floor** - Level RL5.4 to RL7.0 - Car parking for 5 cars and 4 motorcycles, bicycle storage (8 bikes), stair access, driveway, communal room and outdoor area, services / storage room, bin enclosure, accessible boarding room (1).
- **First Floor Level** – RL7.85 to RL8.75 - Nine (9) lodger rooms with internal bathroom and kitchenettes, balcony / walkway access, balcony / terraces, storage and stair access.
- **Loft Level** – RL10.8 to RL11.85 - Loft areas containing bedrooms, storage and living space as the upper level to each boarding room.
(Note: Unit L10 is not a true "loft" design due to its square brick tower building shape).
- **Roof Level** – RL13.7 to RL14.4 Roof ridge.

Ancillary site works include:

- Demolition of existing structures, excavation, site preparation and ancillary site works.
- Driveway and front entry structure with bin storage / letter box's and landscaping and fencing works.
- On-site detention drainage system and connection works to drain stormwater (north) to Pittwater Road system.
- Footpath access connection works.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights

Warringah Development Control Plan - B3 Side Boundary Envelope

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - D8 Privacy

Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 40 DP 7027 , 532 Pittwater Road NORTH MANLY NSW 2100
Detailed Site Description:	<p>The site is located on the eastern side of Pittwater Road at the intersection between Hope Street and Corrie Road. The site has a total area of 789.7 square metres (sqm) with a frontage of 15.2 metres (m) and a depth of 51.8m. The site is rectangular in shape and with a fall of some 3.5 metres from north (rear) toward Pittwater Road.</p> <p>Vehicular access to the site is from Pittwater Road which has a concrete pedestrian path link to Warringah Mall / Brookvale (700m north). The site has not been identified as a heritage item, and is not in a heritage conservation area, nor in proximity to a heritage item or heritage conservation area.</p> <p>A mixture of single and two storey dwellings are generally the predominant land use in the area near the site (within 100m) and the Warringah Golf Course is opposite the site. Detached dwelling houses adjoin the site to the west and north. A child care facility adjoins the site on the eastern boundary. Other land uses in the vicinity of the site (within 200m) include a service station / carwash and sports facilities.</p> <p>The existing site is currently occupied by a dwelling house with parking facilities and domestic outbuildings.</p>

Map:



SITE HISTORY

The site currently contains a dwelling house constructed pre-1970's and an outbuilding in a landscaped setting.

Development Application No.DA2020/0512 for a 12 room Boarding House was withdrawn by the applicant on 11.9.2020

Pre-lodgement Meeting (No.PLM2020/0294) for the construction of a 12 room Boarding House was reviewed Council's *Design and Sustainability Review Panel* on 17.12.2020.

Design & Sustainability Review

The current proposal was reviewed for by Council's *Design & Sustainability Advisory Panel (DSAP)* on 22.4.2021. The DSAP made the following conclusion in reviewing the development:

"The Panel is in general very supportive of the proposal and the overall approach to the site planning and building massing, however the Panel does not support the Proposal in its current form due to the range of issues identified. The recommended amendments to the design are relatively minor and should be incorporated in any revision to the design."

The applicant provided amended plans to Council on 28.5.2021 and relevant internal referrals were also reviewed. The applicant provided the following summary of the changes made:

"We welcome the comments from the Panel. They are all minor changes to our plans. Aside from a couple of recommendations, which we have carefully considered and given a better alternative / explanation, we have amended our application to align with panel recommendations."

Planning Comment

The changes made are considered satisfactory to address the DSAP advice. this includes better design details to address amenity outcomes for surrounding land and future occupants of the building. Minor amendments to the plans include building design considerations, water management, landscaping quality, waste management and livability considerations (natural light / ventilation / private open space) within the Boarding House. The proposal remains consistent with SEPP ARH and the Warringah LEP / DCP controls as detailed within this report.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report. Including, <i>State Environmental Planning Policy (Affordable Rental Housing) 2009 ("SEPP ARH")</i> and <i>Warringah Local Environmental Plan 2011 (WLEP 2011)</i>
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	<p>During the period of assessment a draft amendments to SEPP ARH were gazetted (the 2018 and 2019 the relevant amendments in particular, are referred to as "parking for boarding houses", and "Boarding House Development" in the SEPP).</p> <p>Provisions of any draft environmental planning instrument <i>Draft State Environmental Planning Policy (Remediation of Land)</i> seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.</p>
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan (DCP) 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (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 may be appropriately addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000. Council requested additional information which has been considered the number of days taken in this assessment in light of this clause within the Regulations. The additional information requested relates to minor changes to the plans to include design issues recommended by Council's DSAP. The changes made did not alter the setbacks, principal layout and any primary elements and could otherwise be achieved by conditions. Therefore plans changes and supplementary information does not warrant additional notification pursuant to the <i>Community Participation Plan</i>. The revisions to the plans remain accessible for public viewing online during the assessment and are considered in context of any submissions and any general enquires regarding the application.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. These matters</p>

Section 4.15 Matters for Consideration'	Comments
	<p>may be appropriately addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). These matters may be appropriately addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. These matters may be appropriately addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters may be appropriately addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Warringah Development Control Plan (DCP)</i> section in this report. In summary, the proposal is considered to be consistent with the <i>State Environmental Planning Policy (SEPP) for Affordable Rental Housing (ARH) 2009</i> and the <i>Warringah DCP 2011</i>.</p> <p>Details are provided within the relevant sections of this assessment report and summarised in the Conclusion.</p> <p>(ii) Social Impact Subject to conditions and the effective implementation of an Operational Plan of Management (OPM), the proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed residential land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the type of land use proposed.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>This assessment has found the proposal to be consistent with the relevant provisions of the Warringah LEP 2011 and Warringah DCP 2011, particularly in relation to setbacks, building bulk, landscaping and privacy considerations, noting that in the event of any inconsistency, the State Policy for ARH prevails and overrides the local planning controls.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>The proposal is consistent with the provisions of SEPP ARH in relation to local character and will not create an undesirable precedent for housing or undermine the achievement of the desired future character of the area.</p> <p>In this regard, the development, as proposed, is considered to be in the public interest as the issues raised in submissions have been addressed by the design response (including supporting documents such as the Operational Management Plan) and satisfying relevant considerations addressed by conditions.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/03/2021 to 14/04/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 19 submission/s from:

Name:	Address:
Ms Krystal Anne Barter	580 Pittwater Road NORTH MANLY NSW 2100
Mr Randall Edwyn Lumbewe	9 Hope Avenue NORTH MANLY NSW 2100
Lesley Ann Crawford	534 Pittwater Road NORTH MANLY NSW 2100
Peter Rankin	4 A Hope Avenue NORTH MANLY NSW 2100
Mrs Kimberley Michelle Rankin	4 A Hope Avenue NORTH MANLY NSW 2100
Mr Jayson Dean McDonald	5 Kulgoa Road PYMBLE NSW 2073
Mr Anthony Michael May	3 Hope Avenue NORTH MANLY NSW 2100
Gareth Lee Butler	16 A Hope Avenue NORTH MANLY NSW 2100
Ms Ava Thyrza Shirley	37 Bank Street NORTH SYDNEY NSW 2060
Mr Michael Charles Popplewell	536 Pittwater Road NORTH MANLY NSW 2100
Isobel Minack	Address Unknown
Mr Geoffrey Wayne Dunstan	5 Hope Avenue NORTH MANLY NSW 2100
Mrs Karen Annette Sonneman	544 Pittwater Road NORTH MANLY NSW 2100
Mrs Judith Mary Ann Nicholson	524 Pittwater Road NORTH MANLY NSW 2100

Name:	Address:
Mr Jurgen Ernst Heinrich Schmechel	7 Hope Avenue NORTH MANLY NSW 2100
Mrs Stephanie Bury	23 Carrington Parade FRESHWATER NSW 2096
Mr Andrew Otto Kovacs Mrs Lucy Christine Flanagan	524 Pittwater Road NORTH MANLY NSW 2100
Samia Asim	Address Unknown
Playhouse Learning Centre	530 Pittwater Road NORTH MANLY NSW 2100

The following key issues were raised in the submissions:

- a) Traffic generation
- b) Lack of street parking
- c) Neighbourhood character
- d) Occupancy
- e) Housing design
- f) Development precedent
- g) Building bulk
- h) Inadequate landscaping
- i) Affordable Housing Rents
- j) Overshadowing
- k) Accessibility
- l) Existing dwelling use
- m) Safety
- n) Privacy

The matters raised within the submissions are addressed as follows:

a) Concern that the boarding house will contribute to increased local traffic for adjacent streets such as Pittwater Road and connecting local streets in terms of traffic and safety impacts, including clearways and car parking.

Comment:

The proposal has been assessed by Council's Traffic Engineer and Development Engineer in terms traffic safety, parking and driveway access, including local road conditions (such as Pittwater Road / Corrie Road / Hope Street). Detailed consideration of this issue includes review of the context of the present surroundings and assessment of the building design, consideration of the Parking and Traffic Assessment Report and supporting information provided with the development application. The proposal was also referred to *Transport NSW* (TNSW) and no comments or conditions were recommended regarding Pittwater Road from TNSW. In summary, the proposal provides a compliant number of carparking spaces required by SEPP ARH for 10 boarding rooms (including an accessible parking space, motorbike parking and bicycle racks). Council's Traffic Engineer and Development Engineer have assessed the vehicle access, traffic impact issues, driveway access and parking and have not raised any traffic concerns with the proposal that warrant refusal. Engineering conditions to address relevant traffic, access and parking considerations have been provided.

In summary, the proposal is a compatible residential land use for the R2 Low Density Residential zone and is permissible under the Warringah LEP 2011 and SEPP ARH. The site has convenient access to public transport and fronts a major road with convenient bus stop locations nearby and transport links to

local service centres. Therefore, the scale and intensity of the development will not cause an unreasonable impact on the surrounding road system. Appropriate conditions are applied to address traffic management during construction, vehicle access, safety and parking allocation.

Therefore, this issue has been addressed by the design response and does not warrant refusal of the application.

b) Concern that the proposal will create increased parking demand and loss of kerbside parking in the surrounding streets due to the intensity of use.

Comment:

The development will be provided with a carparking area within the ground floor level (semi-open undercroft area) and includes a compliant number of off-street parking spaces pursuant to SEPP ARH. The site is also located within 100m of a bus stop (southbound services) and signalised intersection (within 250m near Kentwell Road) for safe pedestrian crossing to a bus stop (for northbound services) on the opposite side of Pittwater Road. The proposal has been assessed by Council's Traffic Engineers in terms of potential parking impacts on the adjacent available street parking and is supported, subject to conditions. The proximity to the adjacent childcare centre business does not warrant refusal of the application as this site has its own parking allocation and uses short periods of pick-up drop, off whereas the boarding house is for residents that generally use overnight or short term casual parking (visitors) rather than daily 'peak' AM/PM times.

The proposal includes an appropriate provision of parking to comply with SEPP ARH requirements as detailed within this report. In this regard, the provision of car parking is a standard that cannot be used to refuse consent pursuant to clause 29 of the SEPP if the parking provisions are satisfied.

Therefore, this issue has been addressed by the design of the building (including provision for motorbike, bicycle and accessible parking) and does not warrant refusal of the application.

c) Concern that a boarding house of this scale that is not suitable because of the current Low Density neighbourhood surroundings for family homes and boarding houses should only be in more densely populated zones.

Comment:

The subject site for the proposed boarding house development is within the R2 Low Density Residential zone and Boarding Houses are "Permitted with Consent" in the R2 zone under the WLEP 2011. Boarding houses are also permissible in certain areas of the broader R2 zone under Clause 26 of the SEPP ARH and this site is within the criteria that permits the use on the subject site. There is no inconsistency between the SEPP and the WLEP in this case in terms of permissibility.

The proposal is limited to 10 boarding rooms including a manager's room and is therefore consistent with provisions of the SEPP ARH for low density residential areas, to ensure it is of a density that is compatible with the surrounding land use pattern of development. In consideration of this issue, the proposal is regarded as satisfactory in terms of its design response that is not 'jarring' or out of character with the urban setting, provides appropriate landscape setbacks, suitable external colours and materials, acceptable residential amenity and a visual impact that is consistent with various housing development the local surroundings.

Therefore, the proposal is a suitable and compatible residential use for the site and this issue is not considered to warrant refusal of the application.

d) Concern that the boarding house will be used for transient occupants in an area predominantly used for permanent family residences and the development may add to social issues, potentially

involving police and ambulance call outs, substance abuse, alcohol or smoking and the like, including domestic disturbances associated with the boarding house. This will be similar to the existing house occupants and the boarding house may create complaints.

Comment:

"Transient occupancy" is considered to be occupation of rooms for less than 3 months, as the definition of a boarding house includes a stipulation that it "*provides lodgers with a principal place of residence for 3 months or more*". In this case, the boarding house will require a minimum 3 month lease (*Occupancy Agreement*) and resident commitment in accordance with the requirements of the operational *Plan of Management* (OPM). The boarding house will also have a resident building manager to address issues that may breach the OPM or occupancy agreement that will enable the associated rental agreement to be terminated if warranted. This includes 'house rules' regarding alcohol, smoking and any activities that are not acceptable to the operator / owner of the boarding house, as per the OPM. The OPM for the boarding house include complaints management procedures, including recording and communication details to ensure that complaint are dealt with appropriately and quickly. The behaviour of existing tenants within the existing house that is to be demolished is not relevant to the proposal.

The issue of transient occupancy, including tenant management of social issues such as noise or undesirable tenant behaviour, and the like, is therefore addressed by the OPM and does not warrant refusal of the application.

e) Concern that the boarding houses in the local area are unsuited to the streetscape location and the proposal is inconsistent with the local character, including solar amenity and privacy impacts.

Comment:

Consideration in terms of the streetscape and the design presentation of the building with regard to density, scale and bulk have been addressed under the heading '*Local Character*' within this report. In summary, the building bulk, scale, setbacks and ratio of landscaping to building footprint are discussed in detail within this report. In terms of maintaining a landscaped front setback the minor non-compliance with the front setback is addressed under the heading *Part B7 Front Boundary Setbacks*. The proposed design has included recessed wall sections, gable roof forms, screens, modulated building sections, landscaped setbacks, a ground level common rooms\ and appropriate window placement to ensure no unreasonable impact on the amenity of the neighbourhood character and adjoining land. The proposal does not create an unreasonable overshadowing impact on the adjacent child care centre or unreasonable residential impacts toward adjacent dwellings.

Overall, an appropriate design response has been proposed to ensure the development is in keeping with the existing character of the area in terms of the size and scale of the proposal, including building bulk, overshadowing, privacy and location of communal space.

Therefore, this issue has been addressed and does not warrant refusal of the application.

f) Concern that this boarding house will create an undesirable precedent for more boarding houses due to the design response proposed and if approved.

Comment:

Boarding house development is permissible with consent in the surrounding low density residential area under the NSWSEPP *Affordable Rental Housing (ARH) 2009* and the *Warringah Local Environmental Plan (WLEP) 2011*. Notwithstanding that boarding house development is permissible in the R2 zone, it must also meet the requirements of the SEPP, WLEP and WDCP. This includes the zone objectives and development standards and other controls to ensure a suitable and appropriate character, design, scale and density. The proposal is considered to be consistent with the objectives for landscaped open space, front and side setbacks, including building envelope and height. The building incorporates

variations in roof form and style, including articulation and appropriate materials used to provide visual interest and elements that are acceptable for the residential character (roof form, materials and general appearance).

Therefore, this issue has been addressed and does not warrant refusal of the application.

g) Concern that the building bulk is excessive for the site and will adversely affect the surrounding amenity by being inconsistent with the pattern and scale of existing residential housing near the site.

Comment:

This issue is discussed in detail under the heading *Part D9 Building Bulk* of the WDCP and Clause 30 of the SEPP within this report. The bulk and scale of the proposal is considered to be consistent with the surrounding residential character along Pittwater Road (visual catchment near the site) and when viewed from properties adjacent. It is considered that the proposal satisfies the SEPP ARH and DCP design requirements including building bulk, landscaped open space and side and rear setbacks. In summary, the proposal has addressed building bulk considerations and its 'detached style' scale and character does not create an unreasonable visual streetscape impact.

This issue has been addressed and does not warrant refusal of the application.

h) The boarding house is not consistent with the need for 'green space' and landscaping area for the neighbourhood.

Comment:

The proposal has been designed to satisfy the character controls / objectives under the SEPP, WLEP and WDCP and as a permissible use boarding houses are considered to be a compatible residential style of accommodation for low density areas within a landscape setting. The proposal includes a wide landscaped front and rear setback with comprehensively landscape buffers around the perimeter of the site as detailed on the Landscape Plan, D-S-02, dated May 2021.

This issue has been addressed to ensure compliant landscape area, including quality of landscaping and does not warrant refusal of the application.

i) Concern that the SEPP Affordable Rental Housing (2009) is being used to create inferior studio style apartments that are not the same as other accommodation such as 'The Fred Hutley Village'.

Comment:

The proposed development is designed as a "new generation" style boarding house in that each room has its own kitchenette and ensuite, which is therefore a more expensive style of boarding house accommodation than if bathroom and kitchen facilities are shared between multiple tenants (similar to some traditional boarding houses). The building is not permitted to be Strata subdivided and therefore all other common areas of the building are associated with being shared or partly shared space for the Boarding house occupants. Even though the Boarding house will attract rental returns that are commensurate with market demand, boarding house accommodation is generally less cost than a private independent apartment. The SEPP ARH 2009 does not require the applicant to nominate a rental rate as a mandatory requirement for the proposed boarding house. The Boarding house is not purpose built to be an aged care facility like Fred Huntly Village and therefore persons of any suitable age may reside within a boarding house as a more affordable independent living option to a traditional larger apartment or dwelling house.

The proposal is subject to the provisions of the SEPP which contains development standards and planning controls that override the WLEP and WDCP in relation to specific matters. Additionally, where there are inconsistencies between the SEPP and the local planning controls, the SEPP prevails. The SEPP includes specific planning controls, which cannot be used as reasons for refusal where they are complied with.

Therefore, this issue cannot be prescribed or levied with the current application and does not warrant refusal of the application.

j) Concern that the proposed boarding house will overshadow adjacent land.

Comment:

The applicant has provided shadow diagrams which demonstrate compliance with Council's solar access requirements under Warringah DCP 2011 that apply to the site. In addition, the proposal meets the solar access requirements within SEPP ARH 2009. Overall, the building complies with the maximum building height, side boundary envelope and wall heights and the proposal steps/transitions down the slope of the site to break-up the scale and mass of the building and assist in maintaining solar access / minimising the shadow cast from the building modules. In summary, the proposal is compliant with *Part D6 Access to Sunlight* of the WDCP 2011 to ensure no unreasonable overshadowing..

Therefore, this issue does not warrant refusal of the application.

k) Concern that the proposal does not show that all accessibility requirements have been met for occupants.

Comment

The proposal has been designed to enable *Building Code of Australia (National Construction Code)* and access requirements to be satisfied with the details required at Construction Certificate stage. This is appropriate for a development application. Notwithstanding, this application has been submitted with BCA / NCC revision notes on the plans to demonstrate compliant access and living space consideration has been adequate to achieve compliance requirement for construction. The plans show ramp and graded access points to the accessible unit plus footpath links and accessible car parking and room layouts to demonstrate accessibility / BCA considerations.

Therefore, this issue has been addressed by conditions and design considerations and does not warrant refusal of the application.

l) Concern that the existing dwelling contains backpackers and the proposal will have similar occupants and create issues such as waste bin service management.

Comment:

Backpacker accommodation is defined as short term accommodation, being typically less than 12 months. A Boarding house is for longer term accommodation and requires a formal lease / tenancy agreement, normally 3 months or longer. The proposal will have a building manager to assist with ensuring appropriate residential waste bin service use that complies with Council's Waste Service operations. The existing property has a residential waste service provided by Council and the behaviour of existing rental tenants not using correct bins / not placing bins out for collection etc, given the existing house will be demolished for the redevelopment of the site, is not relevant to the proposal.

Therefore, this issue is not considered to warrant refusal of the application.

m) Concern that the proposal will create safety concerns for vehicle and pedestrian access around the site frontage along Pittwater Road.

Comment:

The proposed access will comply with *Australian Standards* to ensure safe access, sight distances and acceptable engineering gradients. This includes an appropriate driveway design, regrading of the front setback area and associated minor works. Council's Traffic Engineer and Development Engineer have assessed the proposal with regard to vehicles and works in the road reserve area and have provided conditions. Final construction requires minimal works within road reserve are subject to separate approval under *Section 138 - Roads Act 1993*.

In relation to traffic, parking and safety issues along Pittwater Road (including the pedestrian safety, bus routes, parking restrictions) by Council Engineers and *Transport NSW* have considered and no objection to the proposal is raised, subject to engineering conditions to address traffic / road safety considerations.

Therefore, this issue is addressed by conditions and does not warrant refusal of the application.

n) Concern with regard to privacy impacts to adjacent land including visual and acoustic impacts.

Comment:

The northern (rear) boundary is much higher than the front of the site due to a 3.5m difference in site levels. Therefore, it is recommended that a suitable condition be applied to ensure existing ground levels are maintained within 1.0m of the adjacent boundary. The boundary fencing and landscaped setback buffer for the subject property is of adequate height / spacing to maintain appropriate ground level separation to adjoining land, including single dwellings and the childcare centre at No.532 Pittwater Road .

Therefore, this issue relating to "cross-boundary" matters is addressed by conditions and does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported with conditions.</p> <p><u>Amended Building Assessment June 2021</u> <i>The applicant has provided further details as requested. There is no objection to the proposal subject to the attached conditions.</i></p> <p><u>Initial Building Assessment Referral:</u> <i>The applicant is to provide details on how compliance with Clause F3.1, Vol. 1 of the BCA - "Heights of Rooms and Other Spaces" has been achieved in respect to this proposal. Areas of particular concern being habitable room head height; vertical head height above nosings of the stairs and head height of the sleeper platform. The details should be submitted to enable a BCA comment from Building Assessment - Fire and Disability upgrades.</i></p> <p><u>Planning Comment</u> The above issues were addressed following DSAP review and amended plans (including BCA compliance notes on the plans) from the applicant.</p>

Internal Referral Body	Comments
Environmental Health (Industrial)	<p>Supported with conditions.</p> <p><i>Environmental Health reviewed a similar proposal DA2020/0512 for the site and have no objections. Similarly no objections to the current proposal.</i></p>
Landscape Officer	<p>Supported with conditions.</p> <p><i>This application is for the demolition of an existing residential dwelling, and the construction of a new boarding house development, comprising of 10 individual units.</i></p> <p><i>Councils Landscape Referral section has considered the application against the following relevant controls and policies:</i></p> <ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Affordable Rental Housing) 2009,</i> • <i>Warringah Local Environment Plan 2011,</i> • <i>Warringah Development Control Plan 2011 - D1 Landscaped Open Space; and E1 Preservation of Trees or Bushland Vegetation.</i> <p><i>A Landscape Plan has been provided with the application and proposed works include the in-ground planting of trees, shrubs, grasses and groundcovers, as well as the on-slab planting of trees, grasses and groundcovers.</i></p> <p><i>With regards to landscape and its relationship to the State Environmental Planning Policy (Affordable Rental Housing) 2009, the key criteria to be assessed is Clause 30A - Character of Local Area. This clause seeks to ensure the development is compatible with the character of the local area, with particular emphasis on the front setback, ensuring it is consistent and complimentary to the existing streetscape. The proposal seeks to plant a variety of shrubs and a single tree in the front setback which is viewed as a positive addition to the overall streetscape, as the existing site as it stands is largely clear of trees and shrubs, with landscape areas typically turfed. It is however recommended that the proposed tree species be substituted for a locally native canopy tree to compliment the existing riparian zone which is located on the opposite side of the road, and to provide increased built form mitigation.</i></p> <p><i>Generally, the proposed landscape treatments are acceptable as they provide a variety of heights and styles, which largely utilises native species. Additional information is however needed to fully understand the proposed treatments, specifically plant quantities and locations. This is necessary to ensure privacy and vegetative screening is provided between the proposed development and its neighbours to the north, east and west. This is inline with the comments provided by the Design and Sustainability Advisory Panel, which noted the current Landscape Plan is fundamental but provides little detail. It is</i></p>

Internal Referral Body	Comments
	<p><i>recommended that an amended Landscape Plan be provided prior to the issue of a construction certificate in order to address these concerns. The implementation of these landscape works is vital to satisfy control D1, as key objectives include "to provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building", as well as "to enhance privacy between buildings".</i></p> <p><i>Despite the proposed site being largely clear of trees and significant vegetation, it is evident that large, significant trees are located within close proximity to the east and west boundaries within adjoining properties. Although the proposed works appear to be clear from these existing trees and large amounts of excavation appear to not be required, it is noted that proposed works are likely to have minor encroachments into the Tree Protection Zone's (TPZ) of these trees. As these trees are located in neighbouring properties they are required to be protected and retained throughout the development, and the proposed works are required to not have any effect on the long term health and stability of these trees. It is therefore recommended a Project Arborist be engaged for the development to provide advice on tree specific protection measures, as well as supervise demolition, excavation and construction works within these TPZ's. The protection and retention of these trees is vital to satisfy control E1, as key objectives include "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as "to effectively manage the risks that come with an established urban forest through professional management of trees".</i></p> <p><i>The landscape component of the proposal is therefore acceptable subject to the protection of existing trees, as well as the implementation of landscape works as proposed on the amended Landscape Plan to be provided.</i></p>
NECC (Coast and Catchments)	<p>Supported with conditions.</p> <p><i>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</i></p> <p><u><i>Coastal Management Act 2016</i></u> <i>The subject site has been identified as being within the coastal zone and therefore Coastal Management Act 2016 is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the Coastal Management Act 2016.</i></p> <p><u><i>State Environmental Planning Policy (Coastal Management) 2018</i></u></p>

Internal Referral Body	Comments
	<p><i>The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</i></p> <p><u><i>Comment:</i></u></p> <p><i>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</i></p> <p><u><i>Warringah LEP 2011 and Warringah DCP 2011</i></u></p> <p><i>No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</i></p>
NECC (Development Engineering)	<p>Supported with conditions.</p> <p><u><i>2nd Development Engineering Referral - 4.6.2021</i></u></p> <p><i>The applicant provide a conceptional OSD design. Some of the details are missing, a condition of consent has been placed to address the design.</i></p> <p><i>As such, Development Engineering raised no objection to the application subject to the following conditions of consent.</i></p> <p><u><i>Initial Development Engineering Referral</i></u></p> <p><i>The development is required to install an on site stormwater detention (OSD) system in accordance with Council's Water management for development policy. However, there was no OSD has been submitted in this DA.</i></p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported without conditions.</p> <p><i>The property is affected by the Low Flood Risk Precinct, but is outside the Flood Planning Area. The boarding house is in the Residential land use group, hence flood related controls do not apply.</i></p>
Strategic and Place Planning (Urban Design)	<p>The proposal should address the following issues:</p> <ol style="list-style-type: none"> 1. Provide a BCA compliance report to address the low ceiling height proposed in the lodgers/ boarding rooms (variable from 1.6 to 3.4m with 2.1m generally - minimum BCA requirement is 2.4m clear ceiling height). 2. Provide more shelter/ amenity to boarder entering the lodger/ boarding room eg. roof overhang over the front door area to keep dry when it is raining.

Internal Referral Body	Comments
	<p>3. The common lounge and terrace interface could be improved with full height glazing and not have a column in the middle. Another window facing the driveway could be provided for cross ventilation. The common terrace could be improved with the relocation of the stairs towards the rear to make the space more flexible and spacious. The common lounge could be made bigger for a larger crowd to gather.</p> <p><u>Planning Comment</u> The above issues were addressed following DSAP review and amended plans received from the applicant (including conditions and plans now showing BCA ceiling height details, doorway awnings and improved design of the common area).</p>
Traffic Engineer	<p>Supported with conditions.</p> <p><i>The proposal is for demolition of the existing dwelling and construction of a boarding house comprising 10 self-contained boarding rooms.</i></p> <p><u>Parking</u> <i>As per the requirements of SEPP (Affordable Rental Housing) the proposal requires the provision of 0.5 parking spaces for each boarding room i.e 5 parking spaces, 1 motorcycle space for each 5 boarding rooms i.e 2 motorcycle spaces & 1 bicycle space for each 5 boarding rooms i.e 2 bicycle spaces. The developer proposes 5 car spaces, 4 motorcycle spaces and 3 bicycle spaces.</i></p> <p><i>The proposed parking provision satisfies the requirements.</i></p> <p><u>Traffic Impact</u> <i>The projected traffic generation of 3 trips per hour in the peak periods is not considered to have adverse impact on the road network.</i></p> <p><u>Car park and driveway design</u> <i>The driveway serving the site is 5.5m in width for the first 6m inside the property boundary as required by AS2890.1 section 3.2.2. The carpark provides parking for 5 vehicles including a disabled parking space. Three of the parking spaces (spaces 2, 3 & 4) are under the required 5.4m length generally required by AS2890.1. The traffic report submitted with the development application advises that these spaces are 4.8m in length with an unobstructed end overhang which would still be compliant with AS2890.1 section 2.4.1 (a) i provided the end obstruction is under 150mm in height i.e allowing the front of the car to overhang. This will need to be conditioned.</i></p> <p><i>Provided the above can be achieved the carpark layout is supported.</i></p> <p><u>Transport NSW (RMS) feedback</u> <i>It is noted that the plans have been submitted to RMS for comment with no comments received from RMS. This is unusual as RMS would normally wish to comment on a development proposing access to a classified road.</i></p>

Internal Referral Body	Comments
	<i>The proposal can be supported subject to conditions.</i>
Waste Officer	<p>Supported with conditions.</p> <p><u>2nd Waste Management Assessment - Amended Plans (dated 28/5/21)</u> Recommendation - Approval subject to conditions.</p> <p><u>1st Waste Management Assessment</u> Recommendation - Refusal Specifically: The bin room is not large enough to contain the required number of bins - <i>Unacceptable</i> <i>Bin requirements are - 4 x 240 litre garbage, 5 x 240 litre recycling & 1 x 240 litre greenwaste. The footprint of each bin is 600mm wide and 750mm deep.</i> <i>Minimum 1 metre wide isle between rows of bins or between a row of bins and a wall.</i></p> <p><u>Planning Comment</u> The above issues were addressed following DSAP review and amended plans from the applicant.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported with advisory conditions.</p> <p><i>Ausgrid provided a referral response on 25.3.2021 with advisory requirements regarding development (safety) near overhead powerlines. Ausgrid advice is included with the recommended conditions.</i></p>
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p>Supported with no conditions.</p> <p><i>The referral to Transport NSW (formerly NSW Roads and Maritime Service) provided a response on 22.3.2021 and made no comment, no objections and no Transport NSW conditions for the proposal.</i></p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

(SREPs)

SEPP 55 - Remediation of Land

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

SEPP 70 - Affordable Housing (Revised Schemes)

The proposal is not nominated as a development that has been made pursuant to *State Environmental Planning Policy (SEPP) No.70 Affordable Housing (Revised Schemes)*. Therefore no further consideration of this SEPP is applicable.

The principle assessment / building design requirements under the heading *SEPP (Affordable Rental Housing) 2009* however applies as per this report.

SEPP (Affordable Rental Housing) 2009

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

Division 3: Boarding Houses

Clause 25: Definition

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

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

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

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

Clause 26: Land to which this Division applies

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

is equivalent to any of those zones:

<p>(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.</p>	<p>Consistent</p> <p>The site is located within the <i>R2 Low Density Residential</i> zone and, as such, the proposed use is permissible with consent under WLEP 2011, pursuant to the overriding powers of the ARH SEPP.</p>
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Clause 27: Development to which this Division applies

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

Requirement	Comment
<p>(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p>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>Consistent</p> <p>The site is located within the R2 Low Density Residential zone and is situated less than 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday. Concrete footpaths are present along Pittwater Road that provide a continuous path of travel to the nearest bus stops. In summary, The site is located close to bus stops along Pittwater Road: it is approximately 85m to the nearest bus stop along the northern side of Pittwater Road, to the east. It is approximately 190m to the nearest bus stop along the southern side of Pittwater Road, to the east. Bus routes 146, 158, 159, 169, 169x, 199 and E69 run along this route. These routes provide access to Dee Why, Warringah Mall, Manly and surrounding areas.</p> <p>Note: <i>Transport NSW</i> manage traffic conditions including such as clearways, signals and traffic related issues along Pittwater Road as it is classified as a "Main Road" of regional importance. <i>Transport NSW</i> (formerly RMS) have no comments or conditions with regard to the proposal.</p>
Equivalent zones not within Sydney area.	<p>Not applicable.</p> <p>The site is located within the Sydney region.</p>

Clause 28: Development may be carried out with consent

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

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
(1) Density and scale A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Floor space ratios are not applicable to the site under the WLEP 2011 or WDCP 2011.	Not applicable
	(b) if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or	Not applicable	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus: (i) 0.5:1, if the existing maximum floor space	The site is not within a zone that permits residential flat buildings and the site does not contain a heritage item and is not in a heritage conservation area. (i) The site is not within an area that has a floor space ratio. (ii) The site is not within an area that has a floor space ratio to apply a percentage.	Not applicable

	ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.		
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
(a) building height	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,	The maximum building height complies with the 8.4m building height control under the WLEP 2011 (as per <i>existing ground level</i>).	Compliant: 8.4m
(b) landscaped area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	The proposed landscaping is compatible with the existing character of the local area. The front setback has maintained deep soil planting in the setback areas to adjacent neighbours and the street to soften / partly screen the proposed built form. The setback to Pittwater Road will be retained as deep soil planting (of 1m or more depth) as shown on the submitted landscape plan.	Consistent - Pittwater Road
(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,	Communal living room (Ground Floor Level) provides outdoor access terrace area that achieved northern and eastern direct sunlight however due to the ground level position and adjacent rooms of L08 and L09, including access walkway and	Does not comply Satisfactory on merit, with condition for additional window to common room.

		<p>stairs the common room gets 2hrs of sunlight between 9-11am. It is recommended that an east facing window be provided to enhance the light within the common room as the only other available window is south facing.</p> <p>The communal terrace area has a northerly direct solar access to the rear yard and this outdoor areas will receive 3 hours of direct solar access.</p>	
(d) private open space	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m² with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	<p>(i) A private open space area of more than 20 sqm is provided with minimum dimensions of more than 3.0m adjacent communal living room (below room 10).</p> <p>(ii) The private open space balcony area for boarding room L10 is 2.1m x 3.8m (7.98sqm). The balcony can be widened to 2.5m (to be 9.5 sqm). As it is above the communal room terrace this is achievable and is a suitable room for the building manager to reside (as per the OMP).</p> <p>(As an alternative the other boarding rooms that have balconies would be unsuitable as they would need to be enlarged but would encroach into the rear setback / side setback or affect the building / wall structures in order to comply.)</p>	<p>(i) Compliant</p> <p>(ii) Compliant by condition Condition recommended to marginally widen balcony to comply.</p>

(e) parking	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>The building contains 10 boarding rooms including an on-site manager room. The development is not being carried out by a social housing provider.</p> <p>Five (5) car spaces are required for lodgers (including one for a live in building manager).</p>	<p>Complies</p> <p>(Note: One space includes is an "accessible" parking space with a "shared zone" for access)</p>
(f) accommodation size	<p>if each boarding room has a Gross Floor Area (GFA) (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p>	<p>Excluding kitchen bathroom space for Lodger rooms:</p> <p>Room 01 = 25 sqm (2) (Accessible room)</p> <p>Room 02 = 18 sqm (2)</p> <p>Room 03 = 18 sqm (2)</p> <p>Room 04 = 18 sqm (2)</p> <p>Room 05 = 18 sqm (2)</p> <p>Room 06 = 18 sqm (2)</p> <p>Room 07 = 18 sqm (2)</p> <p>Room 08 = 18 sqm (2)</p> <p>Room 09 = 22 sqm (2)</p> <p>Room 10 = 18 sqm (2)</p>	<p>Consistent</p> <p>Based on room sizes, the application must be assessed against the highest occupation for each room and the capacity is a maximum of 20 lodgers.</p>

	(ii) 16 square metres in any other case.		
	(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.	All rooms have a private kitchen and bathroom facilities.	Consistent
	(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	The proposal meets the requirements of this Division in a satisfactory manner, subject to conditions.	Satisfactory, subject to conditions.

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A communal living room is located at the rear (ground floor level) with and adjacent open space area toward the rear yard.	Compliant The communal room has an appropriate standard of amenity and has been located and designed to ensure no unreasonable amenity to neighbour's in consideration of setbacks, site levels, landscape buffer, privacy fencing, adjacent structures and position within the Boarding House.
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 sqm,	No boarding rooms have an area, excluding the kitchen and bathroom facilities that exceed 25 sqm.	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	This has been included in the operational plan of management (OPM) that no rooms are to have more than 2 person occupancy.	Compliant, subject to conditions - to restrict occupancy as per the OPM.

(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each room has its own kitchenette and bathroom facilities. There is also a bathroom and kitchenette within the communal rooms.	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 boarding house 10 lodger rooms (maximum 20 persons). A Managers room is available, to be nominated by condition. 10 room boarding house proposed.	Compliant Recommended that the boarding house / building manager room be "L10" as this has appropriate balcony space and is close to monitor the communal room and principal access corridor at the upper level.
(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	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.	Eight (8) bicycle spaces and four (4) motorcycle spaces are required.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not applicable	Not applicable

Clause 30AA: Boarding houses in Zone R2 low Density Residential

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

Savings and transitional provisions of the SEPP ARH apply to this development application for this clause (ref.Clause 54C).

Clause 30: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC

268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. While the Planning Principle related to a Senior's Housing development it is relevant to boarding house development since the planning principle deals with "local character" and how new development should respond sympathetically to the "character of the local area".

To address this consideration of compatibility the following characterisation matters have been factored in to the assessment, pursuant to the planning principle:

1. What is the relevant area?

Being the visual catchment / surroundings of the site where the impact is greatest and that particular part of the street, the general urban / semi-rural landscape, whether a precinct includes adjacent streets as applicable (such as for heritage reasons).

2. What does “consistent” mean?

Being the residential and prevailing forms or dominance of roof styles, local landscape, identify proportions and patterns of development spacing.

3. What is the local character?

Being whether the land in the vicinity is very urbanised, partly semi-rural, landscaping adjacent buildings, heritage, dominant materials, dominant styles, heights and setbacks.

4. What is the character of the proposed development?

Being whether the proposal is conservative in style, has an inappropriate density, its own 'unique' character if suitable, and blending of colours and materials to the environment.

5. Is the character of the development consistent with the local character?”

Being whether the proposal is "jarring", or in sympathy and whether or not overbearing or overweighted toward a particular precedent or well integrated to the surroundings.

Compatibility of the Proposal with Surrounding Development

The following provides an assessment against the Planning Principle established in those two cases.

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

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

Comment:

The majority of residential buildings in the vicinity of the site are either single storey or two storey detached dwellings with a few examples of town house style or dual occupancy development in landscaped settings. This has established the predominant character of residential development in the area. Other development in the vicinity includes a golf course, business uses (BP service station, Warringah Mall / Medical facilities) and some apartments in the local surroundings.

On the whole, the character of the area remains as low density residential within the visual catchment of the site. Landscaping and trees are a dominant characteristic due to the golf course opposite and that the area is an established suburb for over 60 years, allowing for canopy trees to be well established. The predominant building height is a mixture of single and two storey dwellings. The building setbacks are reasonably consistent, although not in an obviously straight line due to Pittwater Road curving along Brookvale Creek. The landscaping does not dominate buildings; rather, there is a balance between buildings and vegetation. There is some consistency of architectural style (tiled hipped roofs, brick / weatherboard wall heights, verandas, normal window sizes) throughout. The proposal has been designed to include elements of these surrounding built forms in terms of detached style, gable roof forms, external cladding, consistent height and landscaping.

It is noted in particular that the proposed building essentially complies with Council's requirements in relation to height, building envelope and wall height controls. Whilst the boarding house obviously occupies a greater footprint and density than surrounding detached dwelling houses, the overall height and appearance of the development is considered to be compatible with the streetscape and landscape setting of nearby residential development along Pittwater Road. In that regard, it can be concluded that the proposed development is of a scale that is not inconsistent with the streetscape, and therefore consistent with the requirements of this principle.

In this regard, it is considered that the bulk, scale and massing of the development is compatible with the streetscape and consistent with this principle.

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

Comment:

Whilst the proposed development appears as spaced modules in a 'detached style', it has been designed to have some similarities with surrounding development by taking "cues" in terms of cladding materials, landscape setbacks, roof pitch, use of gables and creating an open style to the common areas. In that regard, the use of colours and varying materials, together with the sloping and gable roof form (except for Room L10), and the proposed building setbacks, particularly to Pittwater Road, the building presents as a well articulated building, which will not create an unreasonable impact on the streetscape in this location.

The proposed landscaping also maintains the wide setbacks to Pittwater Road, complementing the building, consistent with the setting of other newer/more recently constructed dwellings in this locality that have wider and larger building footprints.

Overall, the development is considered to be comparable with the scale of surrounding development

- ***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:

There is no existing vegetation of any significance on the site, but new and intensive planting is proposed within the site and concentrated along the side and rear setbacks. This will complement and enhance the appearance of the proposed building.

The site does fall moderately towards the south such that the architect in designing the proposed building, has stepped the mid sections of the building down the site to mitigate excavation and utilize the site levels to reduce the bulk and scale of the building along the north to south alignment, where it would otherwise be much higher if set at only one continuous level.

It is considered that the proposed landscaping will ensure that the building does not unreasonably dominate the proposed building's natural setting, and the design of the building, with its articulation and use of materials and colours, ensures that any perception of visual dominance, will not be unreasonable for the low density urban surroundings.

In that regard, it is considered that the proposed development is consistent with this principle.

In this regard, it is considered that effective methods have not been employed in the design of the development to reduce / break up its visual dominance and so the proposal is not inconsistent with the third principle.

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

Comment:

The proposed building includes materials and colours, and a roof form that retains a visual appearance comparable with the residential context within which the proposed building is to be located. Accordingly, it can be concluded that the proposal is consistent with this principle.

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

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

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

Comment:

The physical impacts of the development on surrounding properties is assessed as comprising privacy, overshadowing and noise.

Constraints on the Development Potential of Surrounding Sites

All land currently surrounding the site includes low density housing stock, a child care centre and a golf course. Landscaping forms a major component of the existing character and the proposal has addressed this issue by maintaining 47% landscape area to maintain a suitable landscape setting and spatial separation and limiting the density to 10 boarding rooms. The design of the proposal has had regard to maintaining the neighbourhood character, considering the urban design outcomes, use of landscape setback, compatible roof style and external materials / colours to the existing context. The surrounding land within a convenient distance to major development around Warringah Mall and Brookvale, including the transport corridor of Pittwater Road. There are no significant site constraints in terms of land area, shape, slope or access to get to nearby local centres.

Privacy

The proposed development has been designed to ensure the elevated decks are appropriately screened to minimise any impact upon the visual privacy of neighbouring residential properties. The loft style habitable rooms are designed with appropriate window spaces for internal amenity that will not create unreasonable visual privacy to adjacent land. Toward the rear of the site the excavation and landscape terraces will maintain visual privacy / separation of neighbouring residential properties to the north.

Dense landscaping is also proposed around the perimeter of the site to minimise any perception of privacy impact upon neighbouring properties.

The main common rooms located on the ground floor levels are located at the northern end (rear area) of the site to minimise any noise impacts that might emanate from this location. Overall, it is considered that the boarding house will maintain a good standard of visual and acoustic privacy, as well as security (including having a building manager residing within the development).

The boarding house design also maintains an innovative use of space to maintain reasonable amenity for the future occupants of the proposed boarding house.

Overshadowing

Shadow diagrams have been prepared and demonstrate that no unreasonable loss of sunlight is created to adjacent residential land. The proposed development complies with the requirements of *Part D6* of Council's DCP in relation to access to sunlight.

Noise

The 10 boarding room development will have a significantly higher occupation compared to that of the adjacent and surrounding detached dwellings for the site. Therefore, potential noise disturbance between adjacent private open space areas is to be managed by integrating or shielding these common areas from neighbouring dwellings which has been reasonably achieved for the design. The outdoor terrace is situated toward the rear and is of a suitable size for the scale of the development to facilitate a place to meet or socialise with visitors or other occupants.

In addition, the proposal will have a Manager and operate in accordance with the *Plan of Management (OPM)*, to ensure noise disturbances from the future occupants do not unreasonably affect surrounding residential land.

An OPM is required to be in place for the management of the boarding house, and a resident on-site manager to enable any immediate response to any noise disturbances. In this regard, it is considered the rear private open space area is suitably located and the presence of an on-site manager and the "house rules" are appropriate mechanism to ensure no unreasonable acoustic amenity on adjacent

land.

Conclusions on Character Assessment

The above character assessment has found that, in the context of the *Land and Environment Court Planning Principles*, the proposal is satisfactory with respect to how it responds to the existing character of the local area and the public interest. The design response to break up wall planes, building bulk, landscaped setbacks, external materials and roof form creates an acceptable design outcome.

In this regard, the proposal is a satisfactory design response to the requirements of the WDCP 2011 in terms of setbacks, privacy, landscaping, private open space and building bulk. The SEPP permits a higher density (of 12 rooms and therefore higher occupancy) however in order to provide landscaping and associated design outcomes to ensure a "good fit" within the low density residential surroundings, 10 boarding rooms are proposed. Generally, as affordable rental housing the development maintains a built form that is not "jarring" and of an interesting style without creating unreasonable visual impacts when viewed from surrounding land and how it sits within the streetscape.

The proposal will therefore will not create an unfavourable development precedent that is contrary to the public interest.

Conclusion

The development is satisfactory in terms of consistency with the SEPP ARH, including the surrounding local character, roof design, privacy, landscaped open space buffers, parking, access and side setbacks and amenity considerations of noise disturbance likely from the communal open space.

SEPP (Building Sustainability Index: BASIX) 2004

The proposal is subject to SEPP Basix following the NSW LEC decision that a Boarding House may be considered as dwelling style housing but is subject to particular criteria relevant to SEPP BASIX. A revised Basix report 1096296M_03 has been submitted dated 11 March 2021 and demonstrates that the Water, Thermal and Energy scores required are achievable.

The proposal is also required to conform to Part J of the *Building Code of Australia* to demonstrate energy efficiency with construction completion. These requirements are appropriate to be detailed with the construction certificate as part of the BCA / National Construction Code requirements.

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:

Ausgrid provided a referral response on 25.3.2021 with advisory requirements regarding development near overhead powerlines. *Ausgrid* advice is included with the recommended conditions.

Other Service Infrastructure Authorities

Transport NSW (formerly *NSW Roads and Maritime Service*) provided a referral response on 22.3.2021 and made no comment, no objections and no service infrastructure conditions for the proposal. No other Service Authority referral issues are raised pursuant to the SEPP.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018) as the boundary extends inland from Manly Lagoon along the Brookvale Creek valley. The site is not readily visible from the beachside area due the density of surrounding development and the position of the building on along the upper area of Brookvale Creek that is over 2.0km from Manly Beach.

Comment:

The proposal is considered to be consistent with Clause 14 and 15 of SEPP Coastal Management (2018) including the "Coastal Use Area" and "Development in the Coastal Zone Generally" areas with no unreasonable impact.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.3 - Height of Buildings	8.5m	8.4m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control (Site Area = 789.7m²)	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	7.2 metres (m) (EGL to eaves)	East / West: 5.0m to 6.5m (side walls)	N/A	Yes
		North / South: 6.8m to 8.1m (end walls)	12.5%	No
B3 Side Boundary Envelope	45 degrees at 4m	East: Within Envelope	N/A	Yes
		West: Breach of envelope	1.2m to 0.2m 19%	No
B5 Side Boundary Setbacks	0.9m	Ground		
		East: 2.5m to 3.0m	N/A	Yes
		West: 2.0m to 2.36m	N/A	Yes
		Upper Floor (& Loft)		
		East: 2.36m to 6.6m	N/A	Yes
		West: 2.0m to 2.4m	N/A	Yes
B7 Front Boundary Setbacks	6.5m	Ground		
		6.498m	0.003%	No
		Upper Floor (& Loft)		
		9.4m	N/A	Yes
B9 Rear Boundary Setbacks	6.0m	Ground		
		6.7m to 10.3m (Balcony / Terrace 6.1m)	N/A	Yes
		Upper Floor (& Loft)		
		6.1m to 7.8m	N/A	Yes

D1 Landscaped Open Space & Bushland Setting	40% (315.8sqm)	47% (332sqm)	N/A	Yes
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

B1 Wall Heights

Description of non-compliance

The maximum wall height for the R2 Density Zone is 7.2m. The maximum wall height to the ceiling (measured to the external eaves) is 7.2m along the eastern and western elevations, however the gable roof form extends the wall height on the northern and southern elevation for each living module to 8.2m.

Merit consideration:

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

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

Comment:

Each module along the western side of the site has a "sleeping / living" loft in the space between each northern and southern vertical wall that reaches a height of 8.2m with gable end walls. The "raked ceiling" is part of a habitable space of the living / sleeping area directly under the roof line and therefore is consistent with the descriptive elements of the wall height control (which would otherwise be a roof truss space above a flat ceiling). The brick tower that contains the common room and boarding room 'L10' complies with the wall height (measured from existing ground level).

The boarding room modules are adequately setback from the side boundaries with landscape zones and breaks in the roof line between each module minimise the single mass of each section of the boarding house. Therefore, the proposed non-compliance to the wall height on the northern and southern end of the boarding room modules does not have an adverse visual impact on the street, adjoining properties or nearby recreational land.

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

Comment:

The overall height of the building is consistent with being generally lower than the existing local tree canopy of the surrounding area and is consistent with this objective.

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

Comment:

The wall height of the gable end to the dwelling modules does not adversely impact any public views (from parks, roads or the like). Elements of the upper wall face south or north and the roof elements are separated between each 'module'.

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

Comment:

The proposed wall height does not create any unreasonable impact on adjacent land in terms of overshadowing and the wall heights and the setbacks are consistent with development for the low density residential zone. The proposal complies with the *side boundary envelope* for the western boundary and the majority of the eastern boundary (except for "L10" with landscape buffers for screen planting, space for services (drainage) and access limited to the central area of the site to reduce noise and vehicle movement impacts to adjacent land.

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

Comment:

Excavation on the site has been minimised to provide a suitable building platform and achieve appropriate driveway gradients to the street and stormwater management. The rear setback is graduated with landscape terraces to stagger the excavation zone at the rear. Landscape planting is used to provide visual amenity for the rear setback area.

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

Comment:

The proposal is consistent with this objective of the DCP to encourage pitched roof forms and a roof design that maintains amenity for the occupants without excessive wall height or any bulky parapet extensions. The DCP permits exceptions to wall height as elements that '*does not include habitable areas wholly located within a roof space*' and the proposal is consistent with this design allowance.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B3 Side Boundary Envelope

Description of non-compliance

The proposal does not comply with the side boundary envelope along the eastern elevation of the upper brick tower that is part of the Common room and Room 10. The non-compliance is up to a 1.2m breach of the envelope. Roof eaves are permitted to encroach the side boundary envelope.

Merit consideration

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

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

Comment:

The proposal has a breach of the building envelope along the eastern side boundary for the upper section across a wall width of 4.39m. The non-compliance is influenced by the configuration of the brick tower containing 3 levels inside and a flat roof, rather than a pitched roof. In addition, this section of the site has a moderate slope and therefore the non-compliance to the side boundary element is a triangular shape (0.2m to 1.2m), being nearly compliant on the northern side with a larger non-compliance on the lower side.

The non-complying element of the wall plane with the side boundary envelope is limited to a short section of the building that the designer has included as deliberate visual variation to the other gable shaped dwelling modules. The building element is set well back from the road and is landscaped on two sides, and has a small building footprint with a short wall span and therefore remains consistent with this objective.

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

Comment:

The non-compliance with the building envelope does not unreasonably affect privacy or spatial separation to adjacent land. Privacy is maintained in that there are no side windows facing the eastern boundary and an appropriate setback is maintained to the rear boundary. The proposal complies with minimum DCP requirements for solar access to adjacent land under *Part D2 Private Open Space*, and consideration of adjacent land with regard to natural light, direct solar access, privacy, bulk and the overall building design / separation are consistent with this objective. The extent of non-compliance with the side boundary envelope does not contribute to an unreasonable loss of amenity by the variation to the side boundary envelope.

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

Comment:

The proposal responds to the site by minimising excavation and maintaining appropriate open space with terraced landscaping stepping up to the rear fenceline. The non-complying element is a short element of the overall building works and does not require excessive excavation.

Having regard to the above assessment, it is concluded that the proposed development, is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance by conditions to maintain consistency with the requirement and objectives of the side boundary envelope control.

B7 Front Boundary Setbacks

Description of Non-Compliance

The control requires development to be setback 6.5m from the front boundary to all public roads. In this case, the proposal has a setback of 6.498 with is a 2 mm (0.003%) variation.

Merit Consideration

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

- *To create a sense of openness.*

Comment:

The building elements that are within the front setback include part of the lower wall plane (facing material) that is part of the ground floor entry stairs, balustrade above and bin storage. These are integrated elements with landscape area in front and the variation has no significant impact on the sense of openness created along the site frontage. The site proposes open landscaping elements provided satisfactory to the street outlook toward the Warringah Golf Course.

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

Comment:

The front setback for the building wall has an open style undercroft for parking and pedestrian access. The encroaching building wall elements do not have an unreasonable impact with regard to maintaining the visual continuity and pattern of buildings and landscape elements in the street.

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

Comment:

The 2mm encroaching elements are minor components of the building and do not detract from the visual quality of the streetscape as the proposal includes deep soil landscape space and appropriate colours and materials to integrate with the surrounding urban environment. Landscape planting includes a mix of deep soil grassed areas, small to medium shrubs and small trees appropriate to the urban landscape.

In this regard, the landscaping proposed will ensure the development does not have an adverse impact on the visual quality of Pittwater Road streetscape and adjacent public space and golf course opposite the site.

- *To achieve reasonable view sharing.*

Comment:

The site is within a built up area and there are no coastal or district views are affected by the building elements within the front setback to Pittwater Road.

Having regard to the above assessment, it is concluded that the proposed development is consistent

with the relevant objectives of WDCP and the objectives specified in section 5(a) of the *Environmental Planning and Assessment Act, 1979*. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D8 Privacy

Merit Consideration

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

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

Comment:

The building layout has been designed to optimise privacy for occupants of the development and occupants of adjoining properties, and living areas, habitable rooms and windows to private open space areas or to the street, have been orientated to limit overlooking, and provided with fitted external screens where appropriate. Upper skylight windows are located so that they do not create unreasonable viewing from the loft areas of the boarding rooms. At the rear of the site No.1 Hope Street is built close to the boundary. The boarding house will maintain a compliant rear setback with landscaping and is excavated to be 3m lower than this adjacent property which will assist to maintain a buffer for privacy toward the rear.

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

Comment:

The building has been designed with the majority of windows and principal outlook for most boarding rooms to be high sill or screened windows. Other window openings and service areas (drying yard, communal open space) are designed or include appropriate screening. This includes external screens (shown on the elevation diagrams) and landscape buffer along setback areas for separation to adjacent land. The erection of side boundary fencing (which provided privacy at ground level) is a private arrangement that is managed under the *Dividing Fences Act 1991*.

The design of the Boarding house uses semi-detached modules that have loft areas for the boarding rooms. Screens and moderate sized windows are used for the western elevation, including a landscaped side setback to minimise privacy impacts toward No.534 Pittwater Road with no unreasonable overlooking areas such as unscreened deck or common outdoor areas facing neighbouring private open space. Along the western side of the site the Boarding house adjoins a property used for childcare and the driveway areas with boundary fencing / landscaping will provide appropriate separation to ensure no unreasonable privacy impacts.

Use of the communal area in terms on acoustic privacy / disturbance is addressed under Section 2.4, 8.2 and 9.0 of the Boarding House Plan of Management, including use of communal areas, common room hours of use, amplified music and general activity management to ensure no unreasonable impact on adjacent residential amenity.

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

Comment:

The design of the building has appropriately located entry points (carparking, pedestrian access), window placement and boundary treatment (fence/landscape screening) to provide personal and property security for occupants and visitors that is appropriate for the surrounding residential environment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Merit Consideration

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

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

Comment:

This issue has been dealt with previously in relation to the Character of the Area (Clause 30A of SEPP (Affordable Housing) 2009). In that regard, it was considered that the development is compatible with adjoining development, and satisfactorily responds to the predominant bulk and scale of development in the local area and the sloping topography of the site. The detached style of boarding house is well modulated with the gable style / loft arrangements and is complemented by the landscaping on the perimeter of the site and in the public domain.

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

Comment:

The development has included building articulation and modulation / separated along the side walls and steps down the site with the topography. The resultant built form does respond to the local character of the existing residential area and does not create an unreasonable visual impact when viewed from adjoining properties and streets that would otherwise be symptomatic of an overdevelopment.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$9,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$900,000.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

The design of the proposal is supported for approval as it is considered to satisfy the relevant control pursuant to SEPP ARH 2009 and the associated Warringah DCP / LEP controls with no significant non-compliance issues raised. In this regard, it is noted that the proposal has addressed Council's *Design and Sustainability Advisory Panel* recommendations to ensure that only minor changes were required to the plans and have been included or otherwise provided with an appropriate design alternative or supporting information.

The 10 room modular design of the boarding house and landscape setting is suitable to meet the SEPP 'character test' in terms of the low density residential environment and subject to conditions will not create unreasonable amenity impacts to surrounding land or for occupants within the development.

Principle assessment concerns raised within public submissions have been addressed in terms of occupancy, urban character, privacy (visual / acoustic), traffic, parking, operational management and

accessibility of the location / setting.

In addition to recommended conditions for engineering, traffic, building compliance, landscaping, stormwater and waste management conditions are included to ensure compliant open space, reduce deep excavation near boundary lines and ensure appropriate operational management requirements.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2021/0166 for Demolition works and construction of a Boarding House pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 on land at Lot 40 DP 7027, 532 Pittwater Road, NORTH MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
D-S-01 Site Plan	May 2021	Miles Winter Pty Ltd
D-P-01 Lower Floor Plan	May 2021	Miles Winter Pty Ltd
D-P-02 Upper Floor Plan	May 2021	Miles Winter Pty Ltd
D-P-03 Roof Plan - Loft Level	May 2021	Miles Winter Pty Ltd
D-P-04 Roof Plan	May 2021	Miles Winter Pty Ltd
D-E-01 Elevations 1	May 2021	Miles Winter Pty Ltd
D-E-02 Elevations 2	May 2021	Miles Winter Pty Ltd
D-E-04 External Finishes	May 2021	Miles Winter Pty Ltd
D-E-05 Site Sections	May 2021	Miles Winter Pty Ltd
D-D-01 Detailed Typical Lodger	May 2021	Miles Winter Pty Ltd
D-D-02 Detailed Typical Lodger Sections	May 2021	Miles Winter Pty Ltd
D-D-03 Detailed Accessible Lodger and Common Room	May 2021	Miles Winter Pty Ltd
D-D-04 Detailed Lodger 9-10	May 2021	Miles Winter Pty Ltd

Engineering Plans		
Drawing No.	Dated	Prepared By
D-P-04 Stormwater Concept	27 May 2021	Miles Winter Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Report 1096296M_03	19.5.2021	Building Sustainability Assessments
Plan of Management Boarding House	Feb 2021	Ali Mehfooz

BCA Access Compliance Report	19.2.2021	Lachlan Miles Design
Preliminary Landslip Assessment E24685.G02_Rev 1	1.3.2021	EI Australia
D-S-04 Site Accessibility Plan	May 2021	Miles Winter Pty Ltd

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
D-S-02 Landscape Plan	May 2021	Miles Winter Pty Ltd

Waste / Construction Management Plan		
Drawing No/Title.	Dated	Prepared By
Demolition Waste Management Plan	18.2.2021	Ali Mehfooz
D-S-03 Site Waste Management Plan	May 2021	Miles Winter Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.
(Note: "interim/final" allows a Certifier to select an appropriate time or work stage to satisfy requirements of the condition)

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

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	25.3.2021

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent

unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$9,000.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$900,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or

Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

5. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

6. **Amended Landscape Plan**

An Amended Landscape Plan shall be issued to the Certifying Authority prior to the issue of a Construction Certificate to include the following details:

i) additional details regarding proposed plant quantities and specific locations;

ii) substitute the proposed *Magnolia 'Heaven Scent'* and the front of the property with a locally native canopy tree. Suggested alternatives include: *Angophora costata*, *Banksia*

integrifolia or *Eucalyptus haemastoma*;

iii) updated planting schedule to include *Frangipani* and climbers as proposed on plan.

iv) Tree planting shall be located within a 9 sqm deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.

v) Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

vii) Native tree planting species shall be selected from Council's list, specifically the *Native Plant Species Guide - Curl Curl Ward*: www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

Certification shall be provided to the satisfaction of the Certifying Authority that these amendments have been documented for inclusion.

Reason: Landscape amenity.

7. **On Slab Landscape Works**

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed:

- i) 300mm for lawn
- ii) 600mm for shrubs
- iii) 1m for small trees

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

8. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials,

- construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

9. **Separation between Driveways**

A plan showing a minimum of 1m wide separation between the proposed driveway and that of the adjacent driveway serving No.530 Pittwater Road shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To improve pedestrian safety

10. **Pedestrian sight distance at property boundary**

A pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is to be provided at the vehicular access to the property and where internal circulation roadways intersect with footpaths or other pedestrian access areas. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

11. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

(i) Room "L10" shall be clearly shown as the "Managers Room" including 1 carparking space for the residing manager.

(ii) The private terrace for Room "L10" shall be enlarged to a minimum of 8.0 square metres (sqm) with minimum dimensions of 2.5 metres (m)

(iii) A window (to match W01-03, height and size) is to be added to the eastern brick wall for the 'Common Lounge' room.

Details demonstrating compliance are to be shown on the Construction Certificate plans and submitted to the satisfaction of the Certifying Authority.

Reason: To ensure development maintains respond to design considerations for internal or external amenity.

12. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

13. **Heights of Rooms**

Heights of rooms and other spaces are to comply with F3.1 Vol. 1 of the BCA. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for the building occupant health and amenity.

14. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with *Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY* and generally in accordance with the concept drainage plans prepared by Mileswinter Pty Ltd, drawing number D-P-04, dated 27/05/2021. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the *Institution of Engineers Australia*, National Professional Engineers Register (NPER) and registered in the *General Area of Practice for civil engineering*.

The drainage plans must address the following:

- a. The details of the on site detention (OSD) must be provided in accordance with the section 9.7.1 of the above policy;
- b. The PSD is to be calculated on the maximum allowable impervious fraction of 0%;
- c. *Transport NSW's* approval must be provided in relation to the pipe connection into their pit on Pittwater Road.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

15. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. The approval of Transport For NSW must be provided in relation to the proposed vehicle crossing on Pittwater Road.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

16. **Compliance with Standards**

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

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

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

17. **Amendments to carpark design**

That further detailed plans of the carpark area be provided demonstrating that the end overhang clearance at the western end of parking spaces '2', '3' & '4' is no greater than 150mm in height (to permit unobstructed end overhang)

Reason: Compliance with parking standards. (DACTRCPC1)

18. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Waste Management Guidelines, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with the Northern Beaches Waste Management Guidelines, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans, a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

19. **Project Arborist**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

20. **Road Occupancy Licence (Transport NSW)**

The developer shall apply for a Road Occupancy Licence (ROL) from *Transport NSW* (formerly *RMS*) Transport Management Centre (TMC) prior to commencing work within the classified road reserve or within 100m of traffic signals. The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified with 'Prepare a Work Zone Traffic

Management' accreditation or equivalent. Should the TMP require a reduction of the speed limit, a Direction to Restrict will also be required from the TMC.

Reason: To inform the relevant Roads Authority of proposed disruption to traffic flows.

21. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members, landscape works, retaining walls, pool surrounds, and other similar items.

Property / Properties:

- No.534 Pittwater Road
- No.1 Hope Street
- No.530 Pittwater Road

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

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

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

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

23. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

24. Transport NSW approval of driveway

The redundant driveway on the Pittwater Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Pittwater Road shall be in accordance with TfNSW requirements (formerly RMS). Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au.

Detailed design plans of the proposed kerb and gutter and the vehicle crossing are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Documents should be submitted to Development.Sydney@rms.nsw.gov.au.

Reason: compliance with RMS requirements (DACTRDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree

canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

26. Road Reserve

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

Reason: Public safety.

27. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

28. External Colours and Materials

The external colours and materials (including front 'open style' fencing style) is to remain consistent with that shown on the stamped approved architectural plans.

Reason: To maintain amenity considerations.

29. Property Boundary Levels

The Applicant is to maintain the property boundary levels within 1m of the side and rear boundary that are consistent with adjacent land in order to provide suitable space for landscaping, drainage management and minimise 'cross boundary' impacts (such as soil / tree support, artificially raised / lowered levels, over excavation, water runoff nuisance and the like).

Replacement of common boundary fencing structures between private property is subject to the *NSW Dividing Fences Act 1991* and its administration.

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority for site level changes.

Reason: To maintain the existing profile of the nature strip/road reserve.

30. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 5 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 Normal and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

31. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan titled dated [INSERT].

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

32. **Waste/Recycling Requirements (Materials)**

During demolition and/or construction the following materials are to be separated for recycling: timber, bricks, tiles, plasterboard, metal, concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

33. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved amended Landscape Plan.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

34. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- b) extent of damage sustained by vegetation as a result of the construction works,
- c) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

35. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

36. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant as the requirements of Transport For NSW.

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

Reason: To facilitate the preservation of on street parking spaces.

37. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

38. **Boarding House Plan of Management**

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

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

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.
(DACHPFPOC7)

39. **Plan of Management Review**

Prior to Occupation the Plan of Management (OPM) shall be reviewed and upgraded.

i) Reference to "Warringah Council" shall be replaced with "Northern Beaches Council".

ii) House rules for the OPM shall include a clause that "Lodgers with noisy motorbikes or cars may be required to restrict entry/exit hours overnight or relocate vehicles off site to avoid a nuisance to other lodgers or neighbouring residents" that details a suitable time period and that alternative public parking along Kentwell Road / Pittwater Road will minimise disturbance to neighbours if circumstances arise regarding Lodgers vehicle noise.

Reason: To provide a robust Plan of Management and minimise vehicle noise to occupiers and adjoining residents.

40. **Outdoor lighting Certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided that any outdoor lighting does not detrimentally impact upon the amenity of other premises and complies with where relevant, Australia Standard AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements and *Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

Reason: To protect the amenity of adjoining properties (DACHPFPOC6)

41. **Garbage and Recycling Facilities**

All internal walls of the waste rooms shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Waste room floors shall be graded and drained to an approved Sydney Water drainage system.

Waste rooms shall be clear of any other services or utilities infrastructure such as gas, electricity air-conditioning, plumbing, piping ducting or equipment.

Reason: To prevent pollution of the environment, provide a safe workplace for contractors and residents and to protect the amenity of the area.

42. **House / Building Number**

House/building number is to be affixed to the building / front fence to be readily visible from the public domain.

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

Reason: Proper identification of buildings.

43. **Fire Safety Matters**

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

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

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

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

44. **Waste and Recycling Facilities Certificate of Compliance**

The proposal shall be constructed in accordance with the Northern Beaches Waste Management Guidelines.

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

Reason: To ensure waste and recycling facilities are provided.

45. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

46. **Positive Covenant for Council and Contractor Indemnity**

A positive covenant shall be created on the title of the land prior to the issue of an Interim/Final Occupation Certificate requiring the proprietor of the land to provide access to the waste storage facilities. The terms of the positive covenant are to be prepared to Council's requirements, (Appendix E of the Waste Management Guidelines), at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing access for servicing of waste facilities.

47. **Authorisation of Legal Documentation Required for Waste Services**

The original completed request form (NSW Land Registry Services form 13PC) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate. A copy of the work-as-executed plan (details overdrawn on a copy of the approved plan) must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council.

If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land.

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

48. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of

planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

For all new residential works with two or more dwellings and mixed use developments, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

49. **Local Undesirable Tree Species**

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other *Undesirable and Exempt Trees* identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.

50. **Site Occupancy - Building Manager**

Room "L10" is to be allocated to the building Manager and one (1) standard width on-site parking space for the manager.

Reason: Parking and operational management.

51. **Noise from mechanical plant**

Plant or equipment or exhaust fans or air-conditioning must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997* and in accordance with the *Protection of the Environment Operations (Noise Control) Regulation 2008*.

Reason: To ensure the amenity of the residential area is not adversely impacted.

52. **Occupancy of Boarding House**

The building is to contain a maximum of 20 persons, being no more than 2 persons per designated bedroom. In order to maintain this occupancy rate, a sign is to be erected immediately adjacent to the doorway accessing the building detailing the maximum sleeping capacity of the occupancy.

Reason: To ensure the amenity of occupants. (DACPLG23)

53. **Resident Parking Schemes**

The building manager is to ensure that all tenants are aware that this building will not be eligible for any Resident Parking Scheme as the parking provisions are deemed compliant with necessary local and state legislation.

Reason: To ensure the Tenants / Lodgers are aware prior to occupying the Boarding House.