
Sent: 30/01/2022 8:52:34 AM
Subject: Submission DA2021/1039 16 Wyatt Ave Belrose
Attachments: Submission McElroy amended plans DA2021-1039 16 Wyatt Ave.pdf;

ATT: Adam Mitchell

Please find attached my submission for

DA2021/1039, 16 Wyatt Avenue BELROSE

Demolition works and construction of a boarding house development

Regards,
Clare McElroy

Clare McElroy
5 Wyatt Ave
Belrose NSW 2085

23 January 2022

General Manager
Northern Beaches Council
Attention: Adam Mitchell

RE: DA2021/1039 - amended plans and reports
Lot 2566 DP 752038 16 Wyatt Avenue BELROSE
Demolition works and the construction of a boarding house development

Thank you for the opportunity to provide further comment on DA2021/1039. In August 2021, I made a submission to council, strongly objecting to this inappropriate, high-density development in Wyatt Avenue. The applicant has now submitted amendments to the original proposal. None of these amendments affect the overwhelmingly objectionable aspects of the proposed development, including its overbearing scale and intensity, and the unreasonable impacts it will have on this low-density neighbourhood. Therefore, **I continue to strongly object to this proposed development.**

The proposal still fails to meet the character statements and development controls for the locality.

To circumvent housing density and local planning controls, the applicant continues to refer to an affordable housing SEPP that is not relevant to the site.

High density housing is unsuitable for this steep, bushfire and flood prone site on the urban fringe.

There is unreasonable environmental degradation from tree removal, mass site excavation and flood management. There will be unreasonable impacts on neighbourhood amenity from lack of parking and noise generation.

The proposal does not stack up environmentally or socially and will adversely affect the quality of life for Wyatt Avenue residents.

Amendments

In its original form, the application was not supported by the RFS, nor Council's Design and Sustainability Advisory Panel, Traffic Engineers, Landscape Officers or Environmental Health officers. Numerous community objections have been submitted.

The applicant has since redesigned key elements of the design, including the driveway, and added missing information. Approval of this DA now depends on approval of a Modification application (Mod2021/0996) for 14 Wyatt, also owned by the applicant. Approval would effectively unite these two oversized developments into one interdependent housing complex. My responses to the amendments are included below, along with comments made in my previous submission. I urge council to include all previous community responses in their assessment, as issues raised are still relevant despite the applicant's latest changes.

14 Wyatt Avenue

When arguing the merit of this application, the applicant draws comparison with the LEC approved boarding house on adjacent 14 Wyatt Ave, also owned by the applicant (DA2018/0401). That proposal was refused by the local planning panel and refused again in a review of that decision. The applicant lodged an appeal with the NSW Land and Environment court and won that appeal, not because of the merit of the application, but because council, for unexplained reasons, chose not to pursue many of the valid contentions that were grounds for refusal by the planning panel. This left the judge very little to work with and resulted in the application being approved. In a cynical “further development by stealth” move, the applicant has already lodged a significant modification for that approval.

Notwithstanding the contentious approval for 14 Wyatt Avenue, the proposal for 16 Wyatt is more than twice the size, has more than double the occupants, and has a design that is not fit for purpose. There are significantly more site constraints than 14 Wyatt, particularly with the addition of the lower buildings and the mass excavation required for basement car parks. These lower buildings were recommended for complete removal by council’s Design and Sustainability Advisory Panel in their report (7 Oct 2021). This development now relies on vehicle access to the lower buildings through the adjacent property at 14 Wyatt, demonstrating that this proposal is unsuited to the site and cannot stand on its own.

In addition, the panel states ***“any comparison is not relevant, and in no way should the approval for 14 Wyatt be considered to establish a ‘precedent’ for the lower building.”***

ARH (Affordable Rental Housing) SEPP2009

The subject site is in the C8 Belrose North locality under the WLEP2000. The affordable housing SEPP is not recognised for this locality under the WLEP2000, nor is it covered by the comparable E3 zoning in the WLEP2011. **Assessment against ARH SEPP should hold no determining weight when considering the merit of this application.** Accordingly, the benefits of that SEPP should be disregarded, and the application assessed for what it is: high density micro apartments on non-urban land.

In February 2019, in response to feedback from communities and councils, the NSW government amended ARH SEPP so that boarding houses are limited to 12 boarding rooms per site in R2 zones. This ruling was a recognition of the adverse impacts that such developments were having in low density residential areas.

It is interesting that the applicant’s SEE makes the claim that this proposal is consistent with the “likely desired future character” of the locality yet fails to consider the 2019 amendment to the ARH SEPP. This amendment clearly aims to curtail the future construction of high-density, boarding house developments, such as this one, in low density neighbourhoods.

Housing density

Under the WLEP2000, the housing density for the C8 Belrose North locality is one dwelling per 20ha, with exemption for a few pre-existing dwellings on smaller lots. The subject land

measures 9,345m² (0.9ha) and proposes 55 “domiciles” or dwellings housed in two multi-storey buildings – the equivalent of over 1,177 dwellings per 20ha.

The applicant has not provided individual kitchen facilities in an effort to circumvent housing density controls by claiming the buildings each constitute a single “domicile. This concept has been disproved in historical court deliberations but regardless, even two dwellings on .9ha, equates to over 40 dwellings per 20ha.

Even disregarding the residential nature of the proposal, the scale and design of the development is not consistent with the standards in the Desired Future Character statement.

The area north of Wyatt Avenue has not been identified for urban expansion or zoning for increased housing density in any local, state, or regional housing or urban planning strategies. It is highly inappropriate for the applicant to suggest that this high-density housing development is not only in keeping with the current neighbourhood but is also the desired and “likely future” character for the locality. There is no evidence for this. This is a self-serving statement to facilitate opportunistic, ad hoc, spot re-zoning for the benefit of individual land holders. This push, from a handful of rural stake holders, has been going on for decades and has so far been rightly resisted by planners. This application does not merit special consideration or exemption from planning controls.

Desired Future Character

The WLEP2000 contains this character statement for the C8 (Belrose North) locality:

“The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be grouped in areas that will result in the minimum amount of disturbance of vegetation and landforms and buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged. Development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.”

The C8 (Belrose North) locality is described by the applicant as “a mixed-use precinct”. The applicant lists a range of existing land uses in the area, such as nursing homes, schools, and bulky goods stores, to justify the scale and intensity of the application yet they fail to mention that over half of the C8 locality is bushland.

In Belrose North, land uses are grouped into distinct neighbourhoods, with retirement villages east of Forest Way, and a business park, schools, and retail nurseries west of Forest Way. The Wyatt Avenue neighbourhood is characterised by bushland and very low-density residential uses on the northern (C8) side, and low density residential on the southern (R2) side. Wyatt Avenue is a dead end with a different character and no direct connectivity to other land use areas in the C8 locality. Comparison with businesses that are outside of the subject neighbourhood and are unrelated in terms of land use, should have no determining weight when considering the character of the area.

Land uses mentioned by the applicant are all Category 3, meaning that they are not

automatically permissible uses and are generally inconsistent with the desired future character. With these developments, as with this application, the applicant is obliged to show that the proposal can satisfy the planning controls, provides a public benefit, and will not result in adverse impacts. The application does not show that it fits comfortably and compatibly within Wyatt Avenue.

Impact and Intensity

The applicant argues that because the proposal is “residential” in nature, it qualifies as a low impact/low intensity use of the site, when compared to other potential/commercial uses in the C8 locality (akin to saying “hey, it could be worse!”).

The “residential” statement ignores the character of the surrounding neighbourhood in Wyatt Avenue, which is **low to very low density single residential** dwellings and bushland. The baseline occupancy for the southern (R2) side of Wyatt Avenue is an average of two to five people per 700m² property. On the northern side it is even lower with one family-sized dwelling per 20ha acreage.

In their assessment report, council’s Design and Sustainability Advisory Panel makes the following comments:

“Reading the objectives for the locality, it is the Panel’s view that this scale of development (regardless of whether it contains dwellings) was not anticipated by the applicable density control of 1 dwelling per 20 hectares. Likewise, the scale of development is considered inconsistent with the desired future character statement in that it is neither low impact or low intensity in use.”

The level of daily movements, noise and domestic activity generated by a property with up to 110 occupants, will be far higher than for other properties in the neighbourhood. By nature, boarding house style developments cater to a transient population with a far higher turnover than would be expected on other residential properties.

No other residential properties in Wyatt Avenue generate noise levels requiring the sort of mitigation needed for this proposal, such as permanent 1.8m noise barriers and restrictions on how many occupants can use outdoor areas at any one time.

The proposal caters for 35 cars and 13 motorcycles with noise from the latter being particularly disruptive. There will be overflow parking in front of residents’ homes. The scale of the design is such that car parks cannot be accessed safely without traffic lights.

The proposal involves significant disturbance of the landform with deep excavation and vegetation removal. The buildings and drainage infrastructure are not a low impact use of the site.

Building design and scale.

The applicant relies on the topography of the site, which slopes steeply from front to rear, to

support its submission that the development sits compatibly and comfortably in the streetscape and will not present as excessively bulky as it would present effectively as a two-storey development. The development does not satisfy the objectives for the C8 locality of “*detached style housing conforming with the housing density standards*”. To present as a two-storey structure to the street, excavation for the front (upper) building exceeds 6m which is not “protecting or enhancing” the landform or grouping buildings where there will be minimal disturbance to the topography.

The buildings are excessively large at 50m and 60m long. They are repetitive and monolithic in design. Along with the hardscaping, they dominate the site and do not conform to the landscape or blend in. No amount of fenestration and cosmetic finishes can hide the bulk of them.

The lower building is distant from the road and a jarring element against the bushland beyond. The eastern boundary is dominated by a driveway and flood storage area with no scope for landscaping. Almost all canopy trees will be removed and replaced by scattered, low plantings that do not soften or camouflage the built forms.

The structures are out of character with the single, detached dwellings in the neighbourhood and do not conform to the character statements for the locality.

The similarity of design to the applicant’s boarding house at adjacent 14 Wyatt, results in the appearance of a relentless and repetitive apartment complex sprawling across two properties.

There is non-compliance with the 10m minimum side setback for the building closest to Wyatt Avenue, being only 6m and 9m from side boundaries. The applicant’s SEE states:

“Strict compliance with the side boundary setback controls would generate a long and narrow built form over the front portion of the site, and effectively render that portion of the site impractical to develop in accordance with the remainder of the applicable planning controls”.

This is unacceptable when the land parcel is over 9,000 m². **A proposal should be expected to meet the planning controls. The constraints of the site should not be used as justification for non-compliance. In other words, the design should be informed by the site, not imposed upon it. If it doesn’t fit, the design should be modified or abandoned.**

Rooms have been reduced from 62 to 55 to increase kitchen and communal areas. There are now six kitchens of varying size: two in the upper and four in the lower building, catering for up to 46 and 64 residents respectively.

The kitchens still appear to lack refrigeration and adequate cooktops and sinks. The number falls short of the Design and Sustainability Advisory Panel’s recommendation of one large communal kitchen per 4-6 rooms, or one residential sized kitchen for every 2-3 rooms.

In the upper building, the ground floor kitchen caters to 13 rooms over two floors, up to 26 residents, and has a single cooktop and sink. Following the panel’s recommendations, between 11 and 22 kitchens (depending on size) are required to adequately cater to residents’ needs. The applicant has chosen not to provide kitchens in individual rooms to try and

circumvent planning density controls for “dwellings”. The plans do not show a realistic or acceptable compromise for resident meal preparation.

It is possible that this lack of effort in kitchen design is an indication that, if the development is approved, the applicant will submit a modification as per 14 Wyatt Avenue, to add cooktops to rooms. Doing so would be a back door initiative to make the development more marketable as self-contained apartments.

Landscaping

Under local planning controls, properties in the C8 locality are required to retain a minimum 50% of the site as bushland or local native planting. The purpose of this is to preserve the local character and biodiversity values of this high conservation bushland area, and to soften and screen the appearance of built forms in the landscape.

The landscaping does not comply with the desired future character statement “*the natural landscape including landforms and vegetation will be protected and, where possible, enhanced*”. Instead, the landform will be heavily disturbed, cleared, excavated, built over and the natural drainage will be altered. The site has largely been cleared over time, with further trees to be removed for construction, and the proposed “landscaping” consists of lawn with a few pocket plantings. The lawn area is dominated by a 328m² on-site detention basin and its excavated surrounds. This limits the scope of planting and would, in fact, discourage any form of passive recreation or enjoyment here. This is not a planted pond or wetland, it is an engineering solution that dominates and detracts from the natural features of the site.

No landscaping is proposed for where the driveway has been moved from the lower eastern boundary. This is now an extensive “flood storage area”. There is no dense, screening vegetation or scope for such along boundaries where buildings and infrastructure occupy the width of the site.

The site is zoned as Fire Prone Land, a classification that dictates how vegetation must be managed to protect life and property. The vegetation management strategies for fire prone land do not support dense planting around buildings or continuous areas of canopy and mid storey vegetation. It is not possible to densely plant 50% of the site with local natives, as per the planning controls, and maintain the site as an asset protection zone unless the development is scaled down and the lower building is removed altogether. **The scale of this development is not appropriate for the site as the competing objectives of managing fire risk and meeting the landscape requirement cannot be reconciled.**

The landscaping does not comply with the planning controls for local species, using instead a generic mixture of native cultivars (e.g. *Lomandra* “Tanika”, *Syzygium* “Cascade”), species not found in local vegetation communities (e.g. *Westringia*, *Corymbia citriodora*, *Eucalyptus robusta*, *E. viminalis*, *Poa labillardieri*) and the exotic tree *Lagerstroemia indica* (Crepe Myrtle). In addition, rough or part-barked eucalypts (*Eucalyptus robusta*, *E. viminalis*) are not permitted in new landscaping on fire prone land.

Noise

The buildings will accommodate up to 110 lodgers, plus any visitors, vehicles and service personnel associated with the site. The occupants are free to come and go at all hours of the day and night, a high possibility if they are the proposed essential services or shift workers, and they will need to park on the street due to the inadequate on-site parking provision.

The applicant has now provided an acoustic report from Pulse White Noise Acoustics. This report states that under current NSW legislation, the noise associated with the entering or exiting of motor vehicles within a site is not deemed an offence; therefore, the consultant has not provided an assessment of the noise that might be generated by vehicles entering and leaving the property. The proposal provides for 35 cars and 13 motorcycles. Under the NSW legislation, existing residents will have no recourse for noise complaints if they are woken or disturbed by noise from these vehicles. This is an unreasonable imposition to place on residents of this quiet neighbourhood, particularly those who live opposite. It should also be noted that the acoustic report does not show the amended driveway layout.

There are communal outdoor areas that are available for use until 10pm. The noise generated by up to 110 lodgers will not be comparable to the low impact noise from a single dwelling in this quiet neighbourhood.

The acoustic report describes compliance measures to mitigate noise impacts. These include a 1.8m high glazed/solid acoustic barrier on outdoor decks and limiting use of these areas to 20 people on the lower deck, and 10 people on the upper deck at any one time. An assumption is also made that only one in two people using the decks will be engaged in conversation at any one time.

The need to have solid acoustic barriers and limit outdoor conversation to a maximum of 15 people at once, indicates that the development is expected to generate a disruptive amount of noise. Some conditions in the POM are basically unenforceable and are no assurance to residents after a development has been approved.

Bushfire risk

The subject site is zoned as Fire Prone Land.

The development application was not previously supported by the RFS due to non compliance with the controls for building on fire prone land and the unacceptable risk to the occupants in a bushfire emergency.

In 1994, Wyatt Avenue was threatened by wildfires that raced up the northern and western slopes, resulting in evacuations and some property losses. It is irresponsible to propose building high density housing in such a location, particularly with a predicted future increase in extreme fire events.

In an emergency, occupants of the lower building will be relying on a shared driveway at 14 Wyatt for evacuation and emergency vehicle access. Combined, this could be up to 119 occupants and 38 vehicles, plus motorcycles and bicycles using a single width driveway controlled by traffic signals and where vehicles are unable to pass.

In 2000, this property was the subject of a development application (DA2000/5177). for

retirement village style “self-care accommodation” of a similar scale to this application. Council refused that proposal, in part because of unacceptable bushfire risk.

Due to the fire prone classification, and the proximity of the lower building to bushland, there is a requirement for the property to be largely clear of vegetation and managed as an inner protection zone. This is incompatible with the character statement for the C8 locality where 50% of a property should be bushland or native landscaping.

Drainage and Flooding

The site is subject to overland flooding and partial inundation, requiring flood walls and other flood mitigation devices to be built just to cope with high (but not extreme) rainfall events. It is not appropriate to put a high-density residential development on flood prone land, particularly in light of predicted extreme weather events due to climate change.

The flood modelling, provided by the applicant’s consultant, does not recognise potential impacts from development approvals on adjacent land (boarding house at 14 Wyatt Ave and childcare centre at 12 Wyatt Ave). These properties drain onto the subject site. Flood mitigation and drainage have been the subject of protracted disputes for neighbouring DAs, with the applicant enclosing photographs and reports of his submerged property as evidence of its flood susceptibility.

Protection of the lower building relies on a flood water storage area on the eastern boundary. The flood modelling shows run off and stormwater being captured in an OSD and discharged into bushland on the northwest corner of the property.

Council’s Design and Sustainability Advisory Panel advised that the OSD was not functional without a 6m change of ground level.

There is no consideration given, either from council bushland officers or an external consultant, on the impact of this discharge on the bushland and Fireclay Gully beyond.

Traffic, Parking and Access

There are 31 resident car spaces, 13 motorcycle spaces and storage for 55 bicycles in underground car parks. There are 55 rooms and up to 110 lodgers sharing 31 resident car spaces and 13 motorcycle spaces. There are four visitor spaces occupying the only passing bay on the driveway. The application uses the parking standard for a boarding house in SEPP (Housing) 2021 (.2 spaces per room) to justify the parking allocation and support the claim that parking needs have been met or exceeded. The affordable housing SEPP does not apply to the C8 locality; therefore, no consideration should be given to the parking standards described.

Council’s assessing officer states that .5 spaces per room is acceptable if the parking allocation is assessed as a backpacker hostel under the E3 zoning in WLEP2011. That LEP does not apply to this locality and this development is not a backpacker hostel. By definition, a backpacker hostel provides temporary shared accommodation for travellers and tourists who have their principal place of residence elsewhere. This boarding house application comprises individual domiciles that will be the principal place of residence for occupants, and where the minimum

stay is three months.

The most appropriate standard for assessment is not a hostel, but Apartment Style Housing under WLEP2000. Accordingly, the on-site parking provision would be one car space for each single bedroom unit and one visitor space for every 5 units – this is 66 car spaces needed to satisfy the planning controls and meet lodger and visitor needs.

Lack of on-site parking will cause unacceptable impacts on existing residents, with lodgers seeking parking spaces in the surrounding neighbourhood. The western section of Wyatt Avenue, where this development is sited, is narrow and cannot accommodate two-way traffic with parked cars. The car parks for Wyatt Reserve and the tennis centre are for users of those facilities, not for overflow resident parking. The applicant's traffic consultant recommends that cars can park on the southern side of Wyatt Avenue, in front of existing residents' homes, which is an unreasonable imposition.

Just because there are bus stops nearby does not mean this location is suitable for high density living or essential service workers. The bus routes are not in a rapid transit corridor and bus links to arterial roads are limited, requiring multiple changes to reach relatively close areas such as Dee Why or Brookvale. After hours services for shift workers are limited.

The traffic and parking report from the applicant's consultant, Motion Traffic Engineers, still does not show modelling for the T-intersection of Wyatt Avenue and Cotentin Road – the intersection that is closest to the subject site. This intersection is chaotic and congested on weekday mornings and afternoons. The traffic threshold for these two local roads is significantly lower than that for the modelled intersection at Wyatt Avenue/Forest Way. The Wyatt/Cotentin intersection will be further impacted by other DA approvals in Wyatt Avenue.

The traffic study does not recognise the traffic that will be generated by recent development approvals in Wyatt Avenue, including the applicant's other boarding house at 14 Wyatt (also with lack of parking), a 60-place childcare centre at 12 Wyatt, and John Colet School expansion. Each of these developments will generate significant additional traffic movements and a need for off-site parking. It is imperative that council collates the traffic data from all recent development approvals so that parking and traffic impacts can be accurately assessed.

The applicant is required to construct kerb and guttering, footpaths, and bus shelters. A referral to Transgrid is needed for kerb and guttering in this section of Wyatt Avenue. In response to other DAs for Wyatt Avenue, Transgrid have stated that they do not want kerb and guttering on the norther side of the road – that is why it has not been done west of Cotentin Road where the road narrows. When transformers are delivered to the substation, they arrive at night on oversized vehicles that are 4m wide, 25m long and up to 5m high. A soft road shoulder is required to allow for safe manoeuvring of these long rigid vehicles.

The lower section of driveway has been removed, with access to lower buildings now achieved through a shared/linked driveway on 14 Wyatt Avenue (also owned by the applicant). The new design is now dependent on approval of a DA modification (Mod2021/0996) for 14 Wyatt

Avenue and installation of traffic lights on both properties. This may resolve some of the design and engineering issues raised by the Design and Sustainability Advisory Panel, but **the shared driveway and interconnected traffic lights will inextricably link these two boarding house developments into one huge and homogenous apartment complex, something that is completely out of context in this locality.**

It is not satisfactory to design a development that is so unsuited to the site that part of it can only be safely accessed through a right-of-way on an adjacent property, using traffic lights.

It is not responsible to put so many occupants on fire and flood prone land with compromised emergency access. The Design and Sustainability Advisory Panel recommended the removal of the lower buildings together.

A traffic light management system is proposed with three sets of lights across two properties at 14 and 16 Wyatt Avenue. Safe vehicle access is not possible otherwise, as driveways are too narrow for passing and have blind corners. The need for such a solution illustrates how unsuitable this large development is for the site. It also raises concerns for emergency access and evacuation if the system should fail. It is interesting to note that the consultant for the traffic light system is a company owned by the applicant, who also owns the adjacent property and obviously welcomes the opportunity to combine all three.

Changes to the steep and arduous pedestrian path, which is now even longer (over 150m). With removal of the lower driveway, the path now runs parallel to a flood storage area and crosses a culvert channeling overflow of floodwaters, sometimes at high velocity. The elevation of the path is not shown on plans, but this overall design raises safety concerns for pedestrians, particularly during flood events. The site is very steep, dropping 29 metres from front to rear, and the need for a flood storage area to protect buildings from inundation also raises concerns about the suitability of the site.

Public Benefit

The applicant justifies the development by claiming it will provide much needed, affordable accommodation for “essential service” workers. The applicant assumes that these workers do not have families, or cars, or a desire to live close to rapid transport hubs or amenities with extended opening hours for shift workers such as shops, eateries, entertainment, and other services. It assumes that these workers will be happy to live in an isolated complex of micro apartments on the urban fringe, away from town centres or similarly styled communities.

The benefit to occupants must be questioned regarding the lack of convenient or after-hours amenities and transport options, the lack of on-site car parking and the inadequate kitchen facilities. The lower building is not accessible; occupants must walk the length of one-and-half football fields, uphill, just to reach the front boundary at Wyatt Avenue.

Emergency access and evacuation is compromised by an inaccessible design, the remote location, and the high number of occupants. The location has a high flood and fire risk. The ability of occupants to safely flee the lower buildings is questionable, whether on foot along the long, steep path over a floodwater outlet, or on a driveway controlled by traffic lights and in competition with emergency vehicles.

As the applicant is not a social housing provider, and the affordable housing SEPP is not covered by the relevant LEP, there is no obligation for the applicant to make these units “affordable” or to prioritise their rental to low-income workers. Therefore, this claimed public benefit should have no determining weight.

This proposal does not stack up environmentally or socially. The public benefit must be questioned when considering the adverse impacts on neighbours from increased traffic, parking, noise, landform degradation and the comings and goings of a transient population.

The overbearing built forms are incompatible with the neighbourhood character of single, free standing homes and rural acreage and bushland. The huge excavation, landscaping, and engineered drainage structures are not sympathetic to the site or the bushland surrounds.

I do not support this inappropriate proposal for Wyatt Avenue and urge Council to reject this application.

Thank you for the opportunity to comment.

Yours sincerely,
Clare McElroy