



MODIFICATION ASSESSMENT REPORT

Application Number:	MOD2021/0996
Responsible Officer:	Steven Layman (Planning Consultant)
Land to be developed (Address):	14 Wyatt Avenue, Belrose Lot 2597, Deposited Plan 752038
Proposed Development:	Modification of Development Consent DA2018/0401 granted for the erection of a part two and part three storey boarding house
Locality:	Warringah LEP 2000 – C8 Belrose North
Category:	Category 2
Referred to DDP:	No
Referral to NBLPP:	Yes
Land and Environment Court Action:	Yes
Owner:	Jennifer Mary Patricia Holman John Richard Holman
Applicant:	Northern Beaches Essential Services Accommodation Pty Ltd
Application Lodged:	6 January 2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential – New Multi-Unit
Notified:	21 January 2022 to 4 February 2022; and 13 July 2022 to 27 July 2022
Advertised:	21 January 2022 and 4 February 2022
Submissions Received:	23
Recommendation:	Approval
Estimated Cost of Works:	\$4,895,000

EXECUTIVE SUMMARY

On 6 January 2022, a Section 4.56 modification application (the subject of this Assessment Report) was lodged with Council seeking consent for the following:

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

On 16 March 2022, the Applicant filed a Class 1 Appeal on the deemed refusal of MOD2021/0996. On 28 June 2022, the Applicant was granted leave to rely on amended plans and supporting information which removed the cooktops from the individual boarding rooms.

This Assessment Report has been prepared based on the amended plans and supporting information which has deleted the cooktops from the individual boarding rooms.

The modification application was advertised and notified in accordance with the EPA Regulation 2000, and the Northern Beaches Community Participation Plan and a total of 23 submissions were received. The concerns raised in the submissions have been considered and addressed as part of this assessment.

The modification application is recommended for approval, subject to the amendment of Condition no. 1 (Approved Plans and Supporting Documentation) of DA2018/0401.

ASSESSMENT INTRODUCTION

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

- An Assessment Report and recommendation has been prepared (the subject of this Report) taking into account all relevant provisions of the *Environmental Planning and Assessment Act 1979*, and the associated Regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant environmental planning instrument;
- 23 submissions were received in response to the exhibition of the application;

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers and State Government Agencies on the proposal.

LOCALITY PLAN (not to scale)



SITE DESCRIPTION

The subject site is a single allotment located on the north-western side of Wyatt Avenue, Belrose. The site is rectangular in shape and has a width of 28.595 metres and a depth of 80.42 metres, equating to an overall surveyed area of 2,29m².

At present, the site is vacant of structures and accommodates heavy planting of canopy trees of varying species and heights. The majority of the trees are located parallel to the eastern property boundary, with several trees interspersed around the allotment. A hedge approximately 3 metres in height exists parallel to the street frontage. The trees parallel to the eastern boundary are scattered amongst boulders and the like, identified as a 'watercourse' in the provided survey. The site slopes approximately 10 metres from south to north (front to rear) via a gradual slope, and no exceptional topographical features can be found on the site.

The site is bounded by 16 Wyatt Avenue to the west and north. 16 Wyatt Avenue accommodates a multi-storey detached dwelling house and an in-ground swimming pool. The portion of 16 Wyatt Avenue that the driveway on the subject site leads to (to the north) accommodates a tack shed, horse facilities and an informal helicopter landing area. 16 Wyatt Avenue extends approximately 115 metres to the north-west before adjoining bushland. East of the subject site is 12 Wyatt Avenue, which is identical in shape to the subject allotment, and is vacant of structures. South of the site and across

Wyatt Avenue are six detached dwelling houses on allotments far smaller than those on the northern side of Wyatt Avenue.

SITE HISTORY

On 15 March 2018, DA2018/0401 was lodged with Council seeking approval for a 27 room boarding house (including manager's residence) at the site. Each of the proposed rooms contained a small kitchen bench including cooktop, sink and apparent provision for a fridge.

DA2018/0401 was refused by the Northern Beaches Local Planning Panel (NBLPP) on 26 October 2018 on the following grounds:

1. *The flood risk assessment report submitted with the development application contains insufficient information to allow a proper and thorough assessment to determine if the development would be likely to have adverse flood risk impacts.*
2. *For that reason, the Panel is not satisfied that for the C8 Belrose North Locality the development is consistent with the Warringah Local Environmental Plan 2000 (WLEP 2000) desired future character requirement of protection and, if possible, enhancement of the natural environment.*
3. *The Panel is not satisfied that the development is consistent with the WLEP 2000 desired future character requirement of conformity with the maximum housing development standard of 1 dwelling per 20 hectares. Although the Panel has a discretion to consent notwithstanding this contravention, it does not consent given the extent of the contravention, the smallness of the site relative to 20 hectares, the large size of the development relative to the site size, and the matters referred to in the other reasons for refusal. If the Panel were prepared to consent (which it is not), then the prescribed concurrence of the Director would be required because the contravention is far more than 10%.*
4. *The Panel is not satisfied that the site is suitable given the matters referred to above and the Panel's assessment that it is an overdevelopment of the site because the building footprint and the total built upon area are too large for the site.*
5. *It is not in the public interest to consent given the matters referred to above.*

On 7 December 2018, a Section 8.2 Review of Determination Application was lodged with Council for DA2018/0401. This application was subsequently refused by the NBLPP for the following reasons:

1. *The development application is for a 'boarding house' as defined under WLEP 2000. A 'boarding house' is a form of 'housing'. The housing density standard therefore applies. The proposal does not comply with the housing density standard contained within locality C8 Belrose North, whether considered to be one dwelling or 24 dwellings. Although the Panel has a discretion to consent notwithstanding this contravention, it does not consent given the smallness of the site relative to 20 hectares, the large size of the development relative to the site size, and the inconsistency of the proposal with the C8 desired future character statement, in that:*
 - *The present character will not remain unchanged*

- *The natural landscape, including landform and vegetation, will not be protected or enhanced*
 - *The development will not be limited to 'new detached style housing' or will not be a low intensity or low impact use.*
2. *The flood risk impacts of the proposal remain unresolved and further assessment of the supplementary information would be required.*
 3. *The Panel is not satisfied that the site is suitable given the matters referred to above and the Panel's assessment is that it is an overdevelopment of the site because the building footprint and the total built upon area are too large for the site.*
 4. *It is not in the public interest to consent given the matters referred to above.*

On 26 April 2019, the Applicant filed a Class 1 Appeal against the refusal of DA2018/0401 and the matter proceeded to Hearing on 10 and 11 December 2020. On 20 January 2021, the NSW LEC granted development consent, subject to conditions.

The development application was approved without the provision of any cooking facilities in individual boarding rooms, which negated the application of the housing density provisions of the WLEP 2000.

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

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

On 16 March 2022, the Applicant filed a Class 1 Appeal on the deemed refusal of MOD2021/0996. On 3 May 2022 Council's Statement of Fact and Contentions was filed with the NSW LEC, raising the following contentions:

- **Development not 'substantially the same' as the development approved**
The addition of the cooktops to each individual boarding room altered the characterisation of the development from a 'boarding house' to 'dwellings'; with each individual boarding room now being capable of being used as separate self-contained dwellings.
- **Unacceptable amenity**
Despite the proposed addition of the two plate cooktops to each individual room, no provision was made for a sink, any nominated area for food storage, waste storage, food preparation or a fridge. Further, no provision for exhaust fans was indicated.

On 28 June 2022, the Applicant was granted leave to rely on amended plans and supporting information which removed the cooktops from the individual boarding rooms.

This Assessment Report has been prepared based on the amended plans and supporting information which has deleted the cooktops from the individual boarding rooms.

PROPOSED DEVELOPMENT

Consent is sought to modify DA2021/0401 as follows:

- Widening of the driveway by up to 400mm in three (3) locations to facilitate access for emergency vehicles.

The adjusted access driveway is intended to also accommodate vehicular access to a proposed 32 room boarding house (being part of an overall development of 55 boarding rooms) on the adjoining allotment to the west at 16 Wyatt Avenue, Belrose (DA2021/1039).

- A reduction to the number of car parking spaces by one (1) space; to facilitate the provision of two (2) disabled car parking spaces in the basement; to provide a total of 12 car parking spaces.
- Addition of a hydrant and sprinkler boosters adjacent to the driveway.
- Addition of a gas bottle filler to the north of the basement.
- Internal adjustments to ensure compliance with the National Construction Code (NCC).

STATUTORY CONTROLS

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

PUBLIC EXHIBITION

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

The initial public exhibition occurred between 21 January 2022 and 4 February 2022 and the application was advertised on 21 January 2022 and a notice was placed on the site.

As a result of the initial public exhibition Council received 14 submissions objecting to the modification application and raising the following concerns:

Concern	Response
<i>Applicability of SEPP ARH in the Deferred Lands</i>	SEPP ARH does not apply to the land; boarding houses are a Category 2 Land

Concern	Response
	Use and are permitted in the C8 Belrose North locality.
<i>Compliance with desired future character</i>	<p>This was considered as part of the assessment of DA2018/0401, which was approved by the NSW Land and Environment Court on 20 January 2021.</p> <p>The proposed modifications are minor in nature and do not substantially alter the appearance of the approved building; with the majority of the changes being internal. The proposed modifications do not change the previous assessed compatibility of the development with the desired future character.</p>
<i>Breach of housing density standard contrary to Court approval</i>	<p>Since the initial public exhibition of the application, the plans were amended as part of the Class 1 Appeal to remove the cooktops from the individual boarding rooms. The removal of the cooktops from the individual rooms means that the rooms are not classified as 'dwellings', consistent with the <i>Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185</i> judgement.</p> <p>As the rooms do not constitute 'dwellings' the housing density standard applicable to land within Locality C8 (Belrose North) does not apply to the boarding house development.</p>
<i>Failure to be 'substantially the same' development</i>	<p>The deletion of the cooktops from the individual rooms results in the development maintaining the definition of a boarding house. The remaining amendments to the development are minor in nature and result in the development, as modified, being substantially the same development for which consent was granted as part of DA2018/0401.</p> <p>The number of boarding rooms and communal rooms does not change, and the external built form of the development remains as approved, with the exception of the widening of the driveway. The internal changes are minor and are required to ensure compliance with the NCC.</p>

Concern	Response
<i>Lack of detail about driveway arrangements</i>	Since the initial public exhibition, the Statement of Environmental Effects was amended to include reference to the adjusted driveway also being intended to accommodate vehicular access to a proposed 32 room boarding house (being part of an overall development of 55 boarding rooms) on the adjoining allotment to the west at 16 Wyatt Avenue, Belrose (DA2021/1039).
<i>Building height and setbacks</i>	The proposed modifications do not alter the building height and setbacks approved under DA2018/0401.
<i>Construction impacts – noise, traffic, parking, dust</i>	The consent for DA2018/0401 includes conditions of consent to manage noise, traffic, parking and dust during the construction phase. The proposed modifications do not alter these conditions.
<i>Availability of infrastructure – parking and sewage</i>	The proposed modifications do not alter the approved sewage arrangement for the development. The modification results in the loss of one (1) car parking space; to facilitate the provision of two (2) disabled car parking spaces. The development remains compliant with the minimum car parking requirement.
<i>Land clearing, landscaping, and impacts on biodiversity</i>	The proposed modifications do not result in the clearing of any additional vegetation from what was approved for removal as part of DA2018/0401.
<i>Increased bushfire risk</i>	The parent Development Application was referred to the NSW Rural Fire Service ('RFS') who raised no objections to the proposal, subject to conditions as recommended. The works sought under this modification application do not alter previous bushfire recommendations or conditions.

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

As a result of the second public exhibition Council received nine (9) submissions objecting to the modification application. The submissions included concerns that were

previously raised as part of the original notification period. The following additional concerns have been raised:

Concern	Response
<i>Plans do not include cooking facilities in individual rooms, despite the BASIX certificate referencing the provision of cooktops, fridges, and ovens in every room.</i>	The deletion of the cooktops within the individual boarding rooms negates the requirement for a BASIX Certificate, as established in the previous Court proceedings for DA2018/0401.
<i>24 hour security guard required for the development.</i>	There is an amended Plan of Management provided for the operation of the boarding house which identifies safety and security measures. There is no planning requirement for a security guard to be in place at the premises.
<i>No mention of how the shared driveway arrangement will be legally formalised.</i>	DA2021/1039 which seeks consent for the construction of a 55 room boarding house development, which would require access to the rear building via the driveway of 14 Wyatt Avenue is yet to be determined. It is noted that this application is currently subject to a Class 1 Appeal.

REFERRALS

Internal Referrals

Internal Referral Body	Comments
Development Engineer	<p><i>Supported, no conditions</i></p> <p>The proposed modification to the internal driveway width and grade has been reviewed and the proposal does not alter the original assessment of the application by Development Engineering. The approved overland flow path is not altered as a result of the proposal. There is no change to the driveway crossing or pedestrian access to the site.</p> <p>Development Engineering support the proposal with no additional or modified conditions of consent recommended.</p>
Traffic Engineer	<p><i>Supported, no conditions</i></p> <p>The proposed modification does not substantially amend the approved development which will still provide for 25 boarding rooms including two accessible rooms. The driveway will be widened by up to 400mm in three locations to improve access for emergency services vehicles which is supported. The number of parking spaces will be reduced by one but this is to facilitate an additional disabled space with the total number of parking spaces remaining consistent with approvals for</p>

	<p>other similar boarding house developments in the area. Bicycle and Motorcycle parking provisions remain consistent with those under the approved development There are no traffic engineering objections to approval of the modification. The proposal is therefore supported.</p> <p>Comment:</p> <p>Traffic engineering support the proposed widening of the driveway and note the one (1) car parking space reduction, acknowledging that the total number of parking spaces remains consistent with approvals for other similar boarding house developments in the area. Bicycle and motorcycle parking provisions remain consistent with those approved under DA2018/0401.</p>
Environmental Health (Industrial)	<p><i>Supported, no conditions</i></p> <p>The proposal is supported with no additional or modified conditions of consent recommended.</p>
Environmental Health (unsewered land)	<p><i>Supported, no conditions</i></p> <p>The proposed modifications do not alter the number of habitable rooms or allowable persons; therefore no further consideration is required for the wastewater treatment system.</p> <p>The proposal is supported.</p>
Landscape Officer	<p><i>Supported, no conditions</i></p> <p>The amended Landscape Plans by R+M Landscape Architecture are noted. The amendments to the Landscape Plans are considered minor and no objections are raised with regard to landscape issues. Existing conditions are considered still relevant and adequate. The proposal is therefore supported.</p> <p>Comment:</p> <p>The amendments to the Landscape Plans are considered minor and no objections are raised with regard to landscape issues. The existing conditions remain relevant and adequate.</p> <p>The proposal is supported.</p>
NECC (Biodiversity)	<p><i>Supported, no conditions</i></p> <p>No objections are raised by the Biodiversity referral team, subject to the biodiversity related conditions provided in the previous consent being retained and the ongoing retention of Trees 30, 31 and 32, per the recommendation of the Arborist Letter) Axiom Arbor 2021).</p>

	The proposal is supported.
NECC (Water Management)	<i>Supported, no conditions</i> The proposal is supported with no additional or modified conditions of consent recommended.
Waste Officer	<i>Supported, with conditions</i> Comment: Council's waste officer has sought to impose conditions of consent that already exist on the parent development consent that need not be repeated. The waste officer comments also seek to impose new requirements that were not enforced in the parent consent. Given that this development is not changing any waste arrangements there is no nexus that would require the introduction of new waste conditions. Therefore, no revised or new waste officer conditions are included in the recommendation of this report.
Building Assessment – Fire and Disability	<i>Supported, no conditions</i> No objections are raised having regard to Building Certification and Fire Safety. The proposal is supported.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on “Draft Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	A Development Control Plan does not apply to the site.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	The EPA Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This

Section 4.15 Matters for Consideration	Comments
	<p>matter has been addressed through conditions of consent for DA2018/0401. The proposed modifications do not alter these conditions and they remain relevant.</p> <p>Clause 92 of the EPA Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed through a condition of consent imposed on DA2018/0401. The proposed modifications do not alter this condition.</p> <p>Clause 93 of the EPA Regulation 2000 requires the consent authority to consider the fire safety upgrade of development. This matter has been addressed through a condition of consent imposed on DA2018/0401. The proposed modifications do not alter this condition.</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>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this Assessment Report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The suitability of the site for the boarding house development was considered as part of approved DA2018/0401. The proposed modifications do not alter the established suitability of the site.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	<p>Submissions received have been considered and addressed in this Assessment Report.</p>
Section 4.15 (1) (e) – the public interest	<p>The proposed modifications to the approved boarding house development are in the public interest; the widening of the driveway is proposed to facilitate emergency vehicle</p>

Section 4.15 Matters for Consideration	Comments
	access and the internal changes are proposed to ensure compliance with the NCC.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs) – As Applicable

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7(1) (Contamination and remediation to be considered in determining a development application) relevantly states that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

Contamination was assessed as part of DA2018/0401 which approved the boarding house development. The proposed modifications do not alter the previous contamination findings that informed the approval of DA2018/0401.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposal was amended during the course of this modification application to remove cooktops from the individual boarding rooms, and therefore no changes to BASIX requirements commensurate to that of the parent consent are proposed.

Local Environment Plans (LEPs)

Warringah Local Environmental Plan 2000 (WLEP 2000)

The C8 Belrose North locality (which covers the land subject to this Application) under the WLEP 2000 was deferred from inclusion in Warringah Local Environmental Plan 2011 in 2011.

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

Warringah Local Environmental Plan 2000 (WLEP 2000)

Desired Future Character (DFC)

Locality:	C8 Belrose North
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Development Definition:	Boarding house <i>(a) means any premises that—</i> <i>(i) are wholly or partly let as a lodging for the purposes of providing the occupants with a principal place of residence, and</i> <i>(ii) are used and occupied by at least 4 long term unrelated residents, and</i> <i>(iii) include a communal living space used for eating and recreation, and</i> <i>(iv) are not licensed to sell liquor, and</i> <i>(b) does not include premises that have been subdivided or in which there is separate ownership of parts of the premises.</i>
Category of Development:	Category 2

Desired Future Character Statement:

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

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

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

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

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

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

The consistency of the boarding house development with the Desired Future Character Statement was determined in *Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185*:

61 *For the reasons outlined above, I am satisfied that the DA is consistent with the Desired Future Character Statement and, therefore, meets the requirements of cls 12(2)(b) and 12(3)(b) of the WLEP.*

The proposed modifications are minor in nature and do not change the boarding house characterisation of the development. The consistency of the DA with the DFC Statement

and the Development Standards, established in *Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185*, remain relevant to the modification application.

Built Form Controls (Development Standards)

The proposed modifications do not alter the approved building height, front setback, side or rear setbacks, and does not propose any structures in the rear setback area.

As a result of the proposed driveway width increases, there is a reduction to the approved bushland setting area. The revised total landscape area comprises 1,181.5m², which equates to 51.4% of the site area, which maintains compliance with the minimum 50% requirement.

As established in the *Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185* judgement, the Housing Density standard is not applicable to the boarding house development. The proposed modifications do not alter the boarding house characterisation of the development and the Housing Density standard remains not applicable.

General Principles of Development Control

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

General Principles	Comments	Complies Y/N
CL38 Glare & reflections	The proposed modifications do not alter the approved building materials and colours.	Y
CL42 Construction Sites	Development consent DA2018/0401 included conditions of consent to manage construction impacts of the development.	Y
CL43 Noise	The proposed modifications do not increase the number of boarding rooms or the maximum number of people occupying the site. The acoustic assessment undertaken as part of the assessment of DA2018/0401 does not change.	Y
CL50 Safety & Security	The proposed modifications do not alter the built form approved under DA2018/0401.	Y
CL54 Provision and Location of Utility Services	Development consent DA2018/0401 included conditions of consent to manage the provision and location of utility services.	Y
CL57 Development on Sloping Land	It is acknowledged that the proposed widening of the driveway at three (3) points will result in a minor increase to the amount of fill required. The driveway	Y

General Principles	Comments	Complies Y/N
	levels and gradients have been adjusted for better heavy vehicle access. The additional fill proposed is considered minor and therefore does not offend the provisions of this clause.	
CL58 Protection of Existing Flora	The proposed modifications do not result in the removal of any additional vegetation from what was approved for clearing as part of DA2018/0401.	Y
CL62 Access to sunlight	The development is not considered to unreasonably overshadowing nearby land.	Y
CL63 Landscaped Open Space	As a result of the proposed driveway width increases, there is a reduction to the approved bushland setting area. The revised total landscape area comprises 1,181.5m ² , which equates to 51.4% of the site area, which maintains compliance with the minimum 50% bushland setting area requirement.	Y
CL63A Rear Building Setback	The proposed modifications do not alter the rear building setback approved under DA2018/0401.	Y
CL66 Building bulk	The proposed modifications do not alter the building bulk approved under DA2018/0401.	Y
CL67 Roofs	The proposed modifications do not alter the roof form approved under DA2018/0401.	Y
CL68 Conservation of Energy and Water	The proposal was amended during the course of this modification application to remove cooktops from the individual boarding rooms, and therefore no changes to BASIX requirements commensurate to that of the parent consent are proposed.	Y
CL72 Traffic access & safety	The proposed modifications do not alter the approved vehicular access point to the development. The widening of the driveway, to facilitate access for emergency vehicles, enhances the safety of the development.	Y
CL74 Provision of Carparking	In order to provide two (2) accessible car parking spaces within the basement, a reduction of one (1) car parking space is proposed, resulting in the total provision of 12 car parking spaces.	Y

General Principles	Comments	Complies Y/N
	<p>As part of the assessment of DA2018/0401, Council acknowledged that Schedule 17 of the WLEP 2000 does not provide a car parking rate for boarding house development.</p> <p>On this basis, Council adopted the parking rate under Clause 29 of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) for boarding house development; noting that SEPP ARH did not strictly apply to the development. Clause 29 relevantly provided that a boarding house development not carried out by or on behalf of a social housing provider cannot be refused on the basis of parking, if at least 0.5 parking spaces are provided for each boarding room, and if not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site (manager). No visitor parking was required.</p> <p>Excluding the Manager's residence, a total of 24 boarding rooms were approved, generating the requirement for 12 car parking spaces.</p> <p>The proposed 12 car parking spaces maintain compliance with the provisions of Clause 26 of SEPP ARH.</p>	
CL75 Design of Carparking Areas	Council's Traffic Engineer has reviewed the amended car parking layout and raised no objection to the modifications.	Y
CL76 Management of Stormwater	The proposed modifications do not alter the stormwater arrangements approved under DA2018/0401.	Y
CL78 Erosion & Sedimentation	Development consent DA2018/0401 included a condition of consent requiring the installation and maintenance of sediment and erosion control. The proposed modifications do not alter this condition.	Y
CL80 Notice to Metropolitan Aboriginal	DA2018/0401 was referred to the Metropolitan Aboriginal Land Council who	Y

General Principles	Comments	Complies Y/N
Land Council and the National Parks and Wildlife Service	raised no objection to the development proposal.	

SCHEDULES

Schedule 6 - Preservation of Bushland

DA2018/0401 approved the removal of vegetation on the site to facilitate the construction of the boarding house development. The proposed modifications do not result in any additional vegetation removal to what has previously been approved under DA2019/0401.

Schedule 8 - Site analysis

DA2018/0401 was accompanied by a Site Analysis Plan and the Statement of Environmental Effects included a written statement explaining the relationship between the design of the development and the site analysis. The modification application includes a Site Analysis Plan and the Statement of Environmental Effects includes a discussion of the proposed modifications and how they relate to the site analysis.

Schedule 9 - Notification requirements for remediation work

Contamination was assessed as part of DA2018/0401 and no remediation works were required to be undertaken. The proposed modifications do not alter the previous contamination findings.

Schedule 10 - Traffic Generating Development

The provisions of this schedule were considered as part of the assessment of DA2018/0401 and it was determined that the approved boarding house development is not Traffic Generating Development. The proposed modifications do not alter this conclusion.

Schedule 11 - Koala Feed Tree Species and Plans of Management

The site is not identified as being in a koala habitat protection area pursuant to Clause 59 as the site area is lesser than 1 hectare.

Schedule 14 - Guiding Principles for Development near Middle Harbour

The development is not in proximity to Middle Harbour and the provisions of this schedule are therefore not applicable.

POLICY CONTROLS

Northern Beaches Section 7.12 Contribution Plan 2021

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The proposal has been assessed against the relevant matters for consideration under Section 4.15 of the *EP&A Act 1979*. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

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

- The amended proposal is considered substantially the same as the original proposal, as detailed within this report.
- The application received 23 submissions, raising a number of issues with the proposed development, as detailed and addressed within this report.
- This report demonstrates that the proposed modifications result in the development remaining low intensity and low impact, in accordance with the requirements of Category 2 Development in the C8 Belrose North locality, as assessed under DA2018/0401.
- The proposed modifications do not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties, as assessed under DA2018/0401.

As such, the proposed modification application is recommended for approval.

RECOMMENDATION - APPROVAL

Reasons for Approval

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed modification application results in the development maintaining consistency with the Desired Future Character of the C8 Belrose North Locality of the Warringah Local Environmental Plan 2000.
2. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed modification application is in the public interest.

CONDITIONS

Modify Condition 1 – Approved Plans and Supporting Documentation to read as follows:

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
02 Rev. N	10 December 2020	Platform Architects
03 Rev. N	10 December 2020	Platform Architects
04 Rev. N	10 December 2020	Platform Architects
05A Rev. N	10 December 2020	Platform Architects
05B Rev. N	10 December 2020	Platform Architects
06 Rev. N	10 December 2020	Platform Architects
07 Rev. N	10 December 2020	Platform Architects
08 Rev. N	10 December 2020	Platform Architects
09 Rev. N	10 December 2020	Platform Architects
10 Rev. N	10 December 2020	Platform Architects
11 Rev. N	10 December 2020	Platform Architects
12 Rev. N	10 December 2020	Platform Architects
13 Rev. N	10 December 2020	Platform Architects
14 Rev. N	10 December 2020	Platform Architects
15 Rev. N	10 December 2020	Platform Architects
16 Rev. N	10 December 2020	Platform Architects

Architectural Plans - Endorsed with Council's stamp		
17 Rev N	10 December 2020	Platform Architects
18 Rev N	10 December 2020	Platform Architects
02 Rev 3	14 June 2022	Platform Architects
03 Rev 3	14 June 2022	Platform Architects
04 Rev 3	14 June 2022	Platform Architects
05 Rev 3	14 June 2022	Platform Architects
05A Rev 3	14 June 2022	Platform Architects
05B Rev 3	14 June 2022	Platform Architects
06 Rev 3	14 June 2022	Platform Architects
07 Rev 3	14 June 2022	Platform Architects
08 Rev 3	14 June 2022	Platform Architects
09 Rev 3	14 June 2022	Platform Architects
10 Rev 3	14 June 2022	Platform Architects
11 Rev 3	14 June 2022	Platform Architects
12 Rev 3	14 June 2022	Platform Architects
13 Rev 3	14 June 2022	Platform Architects
14 Rev 3	14 June 2022	Platform Architects
15 Rev 3	14 June 2022	Platform Architects
16 Rev 3	14 June 2022	Platform Architects
17 Rev 3	14 June 2022	Platform Architects
18 Rev 3	14 June 2022	Platform Architects

Architectural Plans - Endorsed with Council's stamp		
Schedule of External Finishes Rev. C	March 2020	Platform Architects

Civil engineering and stormwater plans – Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
C01 Rev J	20 February 2020	NB Consulting Engineers
C02 Rev J	20 February 2020	NB Consulting Engineers
C03 Rev J	20 February 2020	NB Consulting Engineers
C04 Rev J	20 February 2020	NB Consulting Engineers
C05 Rev J	20 February 2020	NB Consulting Engineers
C06 Rev J	20 February 2020	NB Consulting Engineers
C07 Rev J	20 February 2020	NB Consulting Engineers
C08 Rev J	20 February 2020	NB Consulting Engineers
C09 Rev J	20 February 2020	NB Consulting Engineers
C10 Rev J	20 February 2020	NB Consulting Engineers
C11 Rev J	20 February 2020	NB Consulting Engineers
D01 Rev H	21 February 2020	NB Consulting Engineers
D02 Rev H	21 February 2020	NB Consulting Engineers
D03 Rev H	21 February 2020	NB Consulting Engineers
D04 Rev H	21 February 2020	NB Consulting Engineers
D05 Rev H	21 February 2020	NB Consulting Engineers
D06 Rev H	21 February 2020	NB Consulting Engineers
D07 Rev H	21 February 2020	NB Consulting Engineers
D08 Rev H	21 February 2020	NB Consulting Engineers
D09 Rev H	21 February 2020	NB Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Assessment (Response to Council Letter)	17 August 2018	The Acoustic Group
Arboricultural Report (Final Version)	March 2020	Axiom Arbor Tree Services
Carpark Certification of Proposed Boarding House (Version 1B)	February 2018	ML Traffic Engineers
Flood Risk Management Report (Final Report)	10 February 2020	NB Consulting Engineers
Geotechnical Investigation (J1616)	8 March 2018	White Geotechnical Group
Plan of Management Rev. D	4 December 2020	Northern Beaches Essential Services Accommodation
Plan of Management Rev. F	22 June 2022	Northern Beaches Essential Services Accommodation
Section J Report - NCC 2016	March 2018	Efficient Living
Traffic and Parking Impact Assessment (Version 1A)	January 2018	ML Traffic Engineers
Waterways Impacts Statement (Final)	8 March 2018	NB Consulting Engineers

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

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

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

Landscape plans – endorsed with Council’s stamp		
Drawing	Dated	Prepared by
LP01 Rev C	7 December 2020	R & M Landscape Architecture
LP02 Rev C	7 December 2020	R & M Landscape Architecture
LP03 Rev C	7 December 2020	R & M Landscape Architecture
LP04 Rev C	7 December 2020	R & M Landscape Architecture
LP05 Rev C	7 December 2020	R & M Landscape Architecture

Waste Management Plan		
Report No.	Dated	Prepared By
Waste Management Plan	15 August 2020	Platform Architects

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

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