
From: Ron & Cynthia Patton
Sent: 4/02/2022 1:01:52 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: FW: Mod2021/0996
Attachments: Submission 14 Wyatt Ave Jan 22.docx;

Sent: Friday, 4 February 2022 12:02 PM

To: 'council@northernbeaches.nsw.gov.au' <council@northernbeaches.nsw.gov.au>

Subject: Mod2021/0996

Attention; Adam Mitchell

Northern Beaches Council Senior Planner/Assessment Officer

Please find attached our submission for

Mod2021/0996

Please acknowledge receipt of this email submission.

Lot 2597 DP 752038 No 14 Wyatt Ave Belrose

Modification of Development consent DA2018/0401

granted for the erection of Boarding House with 25 rooms.

Kind Regards

Ron and Cynthia Patton

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3rd February, 2022

Northern Beaches Council
Attention: Adam Mitchell
Senior Planner/Assessment Officer

Mod2021/0996
Lot 2597 DP 752038 No 14 Wyatt Ave Belrose
Modification of Development consent DA2018/0401
granted for the erection of Boarding House with 25 rooms.

Dear Sir,

Thank you for the opportunity to provide a submission on the modifications to the approved Boarding House.

We object strongly to this application as the approval by the Land and Environment Court, copy attached approved the application without cooking facilities in each room. The court makes specific reference to the issue that rooms without the inclusion of cooking facilities are not separate dwellings.

The Modification to include cooking facilities in each room is contrary to the Court approval and will mean that each room will be a separate dwelling. This will result in a development with 25 separate dwellings which will be a housing density well in excess of the standards in the planning controls for this property.

The Statement of Environmental Effects by the Applicant

The modifications include the following;

“The proposed amendments include the addition of cook tops within the individual boarding rooms to provide boarders with the option to prepare their meals within their own rooms.”
There are no details regarding ventilation for these proposed cooking facilities.

“Further, the vehicular access driveway is being slightly widened by up to 400mm in three (3) locations along the alignment of the approved driveway to facilitate access for emergency vehicles.”

“Finally, a series of minor adjustments are proposed to satisfy the requirements of essential services providers, comprising the addition of a hydrant and sprinkler booster adjacent to the access driveway, and internal adjustments to ensure compliance with the National Construction Code (NCC).”

Addition of Cook tops

This is a significant modification and not a minor matter.

As stated in the SEE by the applicant

“Section 4.56 of the Environmental Planning and Assessment Act 1979 specifies that:

1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the

regulations, modify the consent if: (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”

The proposal to include Cook Tops in each unit of the Boarding House will substantially change the proposal when considering the standards in the planning controls for this property.

The introduction of Cook Tops will result in each unit of the Boarding House being defined as a separate dwelling resulting in the housing density of the modified development exceeding the density controls of 1 dwelling per 1ha by a very large amount.

The approved boarding House has 25 units (including a Manager’s unit) on a lot with an area of 2,298 m².

The planning controls include Housing Density Standards of 1 dwelling per 20ha.

This means that the proposed amendment will have a housing density 2,175 times greater than the standard in the planning controls for this Locality.

Therefore this modification proposal is not substantially the same as the approved development which means that the modification is not in accordance with the provisions of the Environmental Planning and Assessment Act.

In the SEE the application acknowledges this fact yet attempts to dismiss this modification not significance.

The SEE states in part, “The proposed amendments include the addition of cook tops within the individual boarding rooms to provide boarders with the option to prepare their meals within their own rooms. In the circumstances, **the individual boarding rooms could potentially be considered “dwellings” for the purposes of the housing density control.**”

The approval for this Boarding House was made through an appeal to the Land and Environment Court following refusals by two separate Northern Beaches Council Local Planning Panels.

The Land and Environment Court hearing was held on 10 and 11 December 2020
Platform Architects Pty Ltd v Northern Beaches Council [2020] NSWLEC 185

The Judge stated in part

“The concept of a dwelling has been the subject of considerable debate over many years. As a general proposition a dwelling must contain the essential components of a domicile for the exclusive use of the occupant, being: sleeping; bathroom and cooking facilities”

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

These details show that this modification to include Cook tops in each unit produces a dwelling density well in excess of the standards in the Planning controls for this property. The proposal should be refused.

It needs to be noted that the original proposal by the applicant included cooking facilities in each room.

This application was refused by the Local Planning Panel.

The applicant made a separate application to the Local Planning Panel to have the refusal decision reviewed.

Again, the second Panel refused the application.

The applicant then appealed to the Land and Environment Court with amended plans that removed the cooking facilities from the rooms.

This series of events shows that the Local Planning Panels and the Land and Environment Court will not approve this modification with cooking facilities in each of the 25 rooms in the approved Development Application for this property.

Widening of the proposed driveway

The SEE states in part, "Further, the vehicular access driveway is being slightly widened by up to 400mm in three (3) locations along the alignment of the approved driveway to facilitate access for emergency vehicles."

There are no details of this proposal provided on any of the attached plans to show the details and impact of this amendment.

The only indication of a change to the proposed driveway is on the Landscape Plan. The plan shows a modification with a red line making the driveway width smaller.

Further details need to be provided by the applicant to allow an assessment of this, proposal

Amendments for essential Services

The SEE by the applicant states

"A series of minor adjustments are proposed to satisfy the requirements of essential services providers, comprising the addition of a hydrant and sprinkler booster adjacent to the access driveway, and internal adjustments to ensure compliance with the National Construction Code (NCC)."

It is essential that the Council ensure that these requirements are implemented.

Access to Boarding House proposal at No 16 Wyatt Ave via No 14 Wyatt Ave

This is a further amendment that has not been addressed in the application.

The application includes a Traffic Management System proposed in a letter from Holman Engineering which states in part;

"It is proposed to now use the driveway at 14 Wyatt Ave Belrose to provide access to the proposed Lower Boarding house at 16 Wyatt Ave Belrose. As such the above comment is now pertinent to the driveways at both 14 Wyatt Ave Belrose and 16 Wyatt Ave Belrose."

There is no mention about this use of the driveway or the proposed traffic management system in the Statement of Environmental Effects or the Traffic and Parking report by the consultants for the applicant.

To achieve this access to No 16 Wyatt Ave via No14 Wyatt Ave there will need to be some type of legal arrangement e.g. details in the titles of each property or consolidation of both properties to make one lot.

There are no details in the application.

It is essential that details of the joint use of this driveway and all other issues associated with this driveway are submitted with the application so that all modifications can be assessed.

We submit these details for consideration in the assessment of the application.

Yours Sincerely

Ron and Cynthia Patton