

JOINT REGIONAL PLANNING PANEL (Hunter Central Coast Region)

JRPP No	2016HCC027
DA Number	433/2016
Local Government Area	Central Coast
Proposed Development	Boarding house comprising 62 rooms under SEPP (Affordable Rental Housing) 2009 and commercial ground floor premises including demolition of existing structures
Street Address	43 Howarth Street Wyong Lot 26 DP3763
Applicant/Owner	Michael Kitmiridis Architect
Number of Submissions	3 + 1 petition with 46 signatures
Regional Development Criteria (Schedule 4A of the Act)	Clause – Affordable Housing with a CIV exceeding \$5 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> • <i>State Environmental Planning Policy No. 71 – Coastal Protection</i> • <i>State Environmental Planning Policy 55 – Remediation of Land</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>Wyong Local Environmental Plan 2013</i> • <i>Wyong Shire Development Control Plan 2013</i> <ul style="list-style-type: none"> - Chapter 2.11 - Parking and Access - Chapter 3.1 Site Waste Management
List all documents submitted with this report for the panel's consideration	<p>Annexure A – Assessing Officers Report</p> <p>Annexure B – Recommended Conditions of Consent</p> <p>Annexure C – Development Plans</p> <p>Attachment 1 State Environmental Planning Policy No 71 – Coastal Protection</p> <p>Attachment 2 Clause 4.6 Variation Request</p>

Recommendation	Approval subject to conditions
Report by	<p>Julie Garratley - Development Planner</p> <p>Emily Goodworth – Section Manager – Development Assessment</p> <p>Tanya O'Brien – Unit Manager - Development Assessment</p>
Report date	16 June 2017

Assessment Report and Recommendation

CENTRAL COAST COUNCIL

For The Hunter Central Coast Joint Regional Planning Panel (JRPP)

SUMMARY

A development application has been received for a mixed use development comprising ground floor commercial premises and a 62 room boarding house. The development is submitted under State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) and includes the demolition of existing structures at 43 Howarth Street, Wyong. The application has been assessed having regard to the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and other statutory requirements.

Applicant	Michael Kitmiridis Architect
Owner	Tanos Group Pty Ltd
Application No	DA/433/2016
Description of Land	Lot 26 DP 3763 43 Howarth Street, Wyong
Proposed Development	Mixed Use Boarding house comprising 62 rooms under SEPP (Affordable Rental Housing) 2009 including demolition of existing structures
Site Area	1233.00 m ²
Zoning	B4 Mixed Use
Estimated Value	\$7.8 million
Existing Use	Commercial premises

RECOMMENDATION

1. *That the JRPP grant consent to DA/433/2016 at Lot 26 DP 3763, for a mixed use development including a boarding house comprising 62 rooms under State Environmental Planning Policy (Affordable Rental Housing) 2009 including demolition of existing structures subject to the conditions provided in Attachment 2.*
2. *That the JRPP advise those who made written submissions of the decision.*
3. *That the JRPP advise those Government Authorities who made written submissions.*

PRECIS

Proposed Development	Mixed use development comprising ground floor commercial and a 62 room boarding house under SEPP (Affordable Rental Housing) 2009 and demolition of existing structures.
Permissibility and Zoning	The mixed use of commercial premises and boarding house is permissible under Wyong Local Environmental Plan 2013 (WLEP)
Relevant Legislation	<i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i> (ARHSEPP)
Current Use	Commercial premises (Coffee Shop)
Integrated Development	No
Submissions	3 + 1 petition (46 signatures)

INTRODUCTION

The Site and Surrounding Development

The subject site is located at 43 Howarth Street Wyong midway between Warner Avenue and Rose Street and is opposite the Wyong Railway Station and the commuter carpark. The site is zoned B4 Mixed Use, has a width of 18 metres and an area of 1233m². The site currently contains a single level light industrial style building with shopfront which is proposed to be demolished. The site has a west/east orientation with minimal vegetation and a slope of approximately 2.8 metres from the south to north. Howarth Street is a sealed road with kerb and gutter and the site does not currently have any formalised vehicle access.



Figure 1: Aerial photo showing subject site of proposed development.

The site is a short walk of approximately 200 metres to the Wyong Town Centre and public transport is accessible at the Wyong Railway Station and bus interchange. Surrounding development includes a mix of light industrial and commercial buildings. The Main Northern Railway and Wyong Railway commuter car park is opposite the site adjacent to the Howarth Street road alignment. To the east of the site are detached residential dwellings with frontage to Levitt Street and further east are the Baker Park sports facilities.



Figure 2: Aerial photo showing subject site and broader locality.

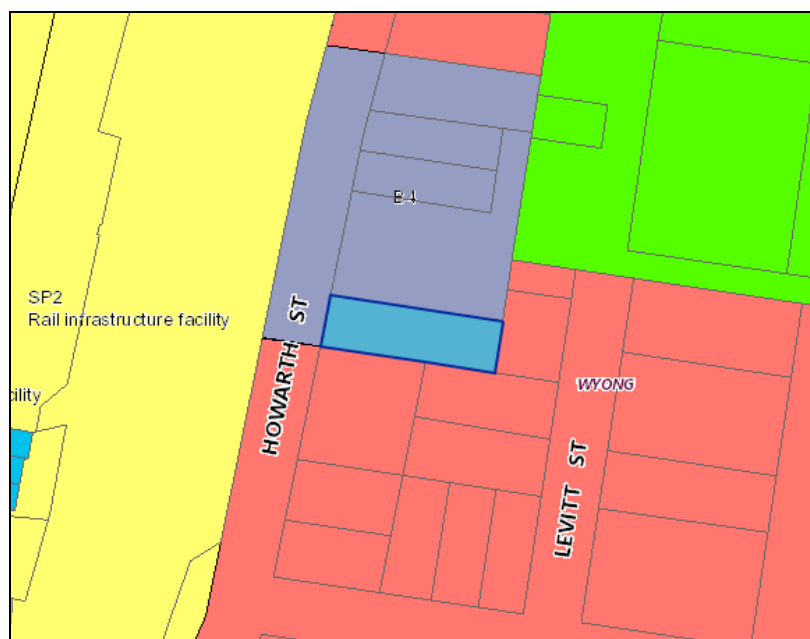


Figure 3: Extract from zone map showing subject site and locality.

History

The subject site is currently being used as a coffee shop. The site has been used for various commercial uses in the past including a warehouse, packing house and shop.

PL/176/2015 was undertaken in relation to a proposed boarding house on No.43 Howarth Street.

DA/304/1988 was approved for the existing development of a warehouse with shop on the 6 March 1989.

The Proposed Development

The proposed development is for a mixed use development in the form of two buildings. The main building facing the street comprises retail premises on the ground floor and 44 double boarding rooms which includes the on-site manager's residence. The building includes basement parking for 12 car spaces, 13 motor bike spaces, cleaners' room, hydrant pump room and passenger lift and a common room and laundry on the ground floor. The second building located at the rear is three storeys high and contains 18 single boarding rooms.

The five levels of boarding rooms of the front building have been designed to capture the north, east and westerly aspect. The rooms which face the street will have an outlook across to the train station while the rooms at the rear will look towards Baker Park. The boarding rooms in the rear building have balconies located on the northern side of the building with an outlook north east. The boarding rooms all have kitchenettes, en-suites and most have a small balcony. The floor levels are accessible by an elevator and stairs. The hallway on each level of building one has been designed as a breezeway and has fixed louvre shutters at each end.

The buildings are to be constructed of concrete panels with vertical metal balustrades; fixed louvre shutters and a metal roof. The proposed colours are "antique white" walls, "woodland grey" metal balustrade, "seabreeze" fixed louvre shutters and the roof is in "surfmist". The site is to be suitably landscaped and has a pergola over the outdoor common recreation area located between the buildings.

Applicable Planning Controls

The development application has been submitted under the provisions of the ARHSEPP. The developer is promoting the boarding house as a "new generation" type which is similar to micro living apartments found in cities. The ARHSEPP allows for the development of new generation boarding houses in residential, mixed use and some commercial zones. This style of residential accommodation is aimed at those who do not want permanent accommodation due to temporary work arrangements and students.

There are no specific boarding house provisions under Council's Wyong Development Control Plan 2013 (WDCP). However, the numerical controls of WDCP Chapter 2.4 Multiple Dwelling Residential Development have been used as a guide only where applicable given the building type is similar to that of a residential flat building.

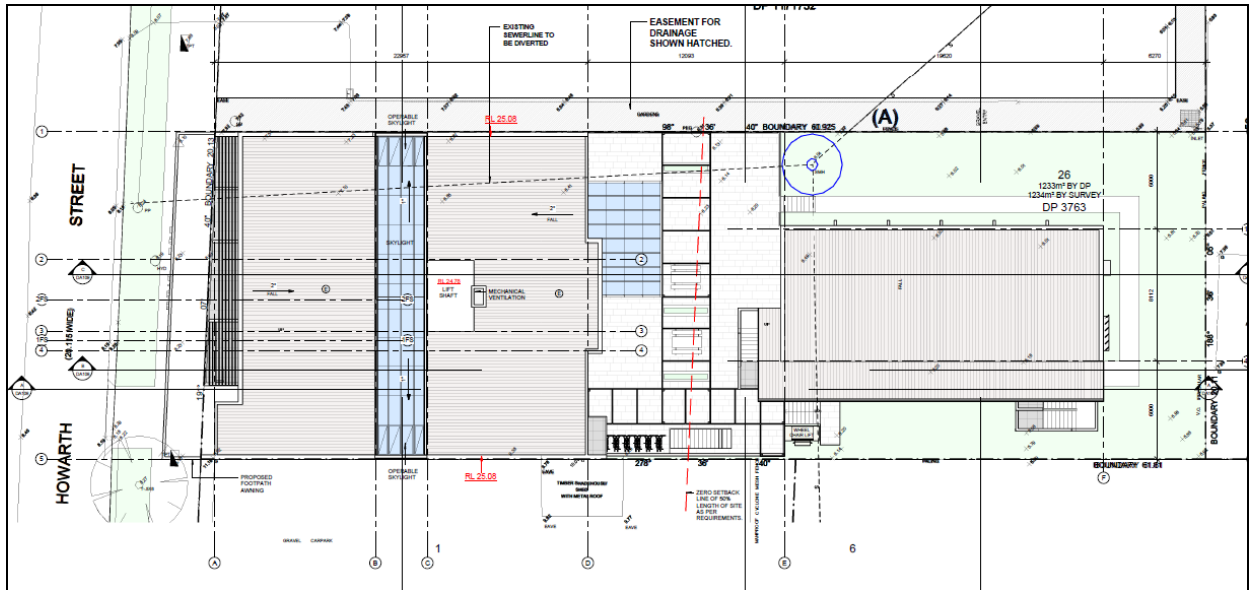


Figure 4: Site Plan/Roof Plan

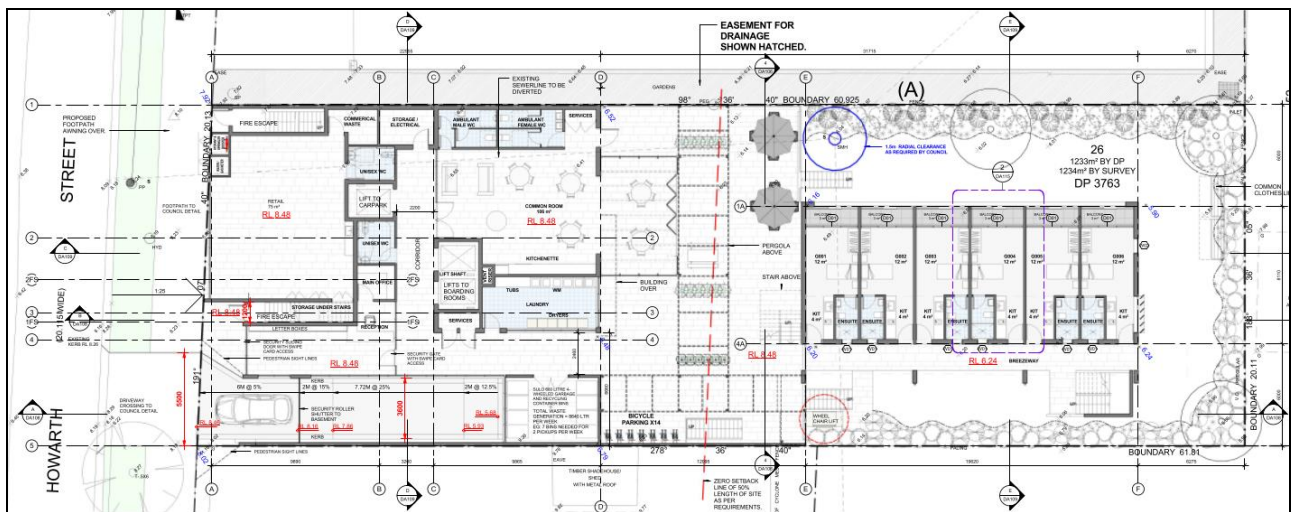


Figure 5: Ground Level

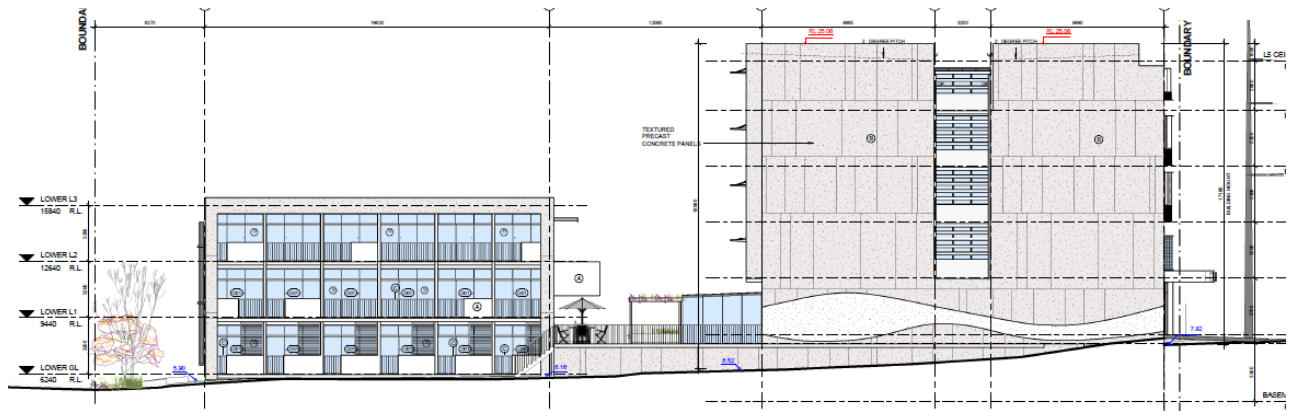


Figure 6: North Elevation

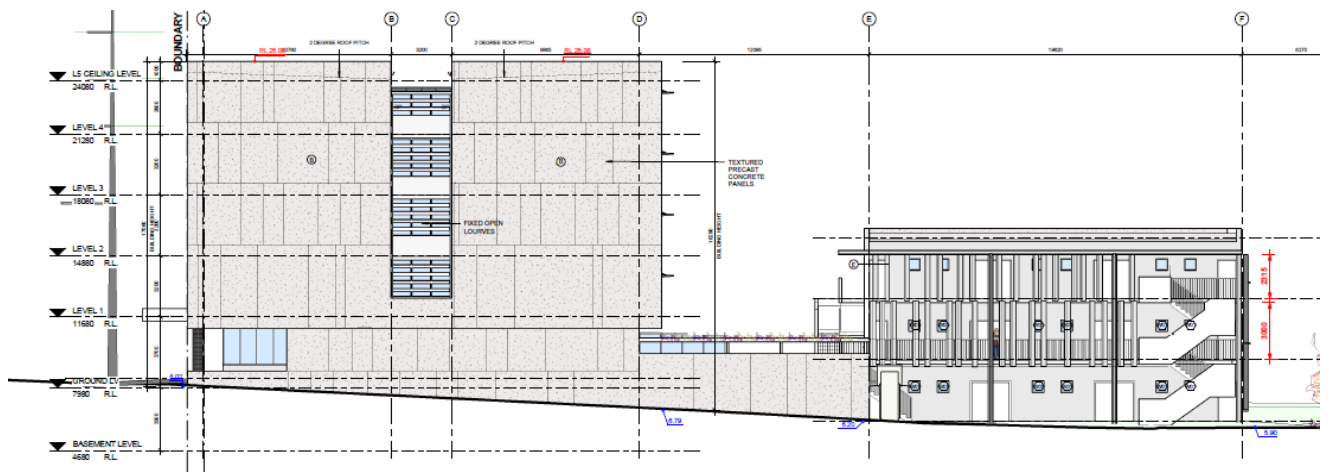


Figure 7: South Elevation

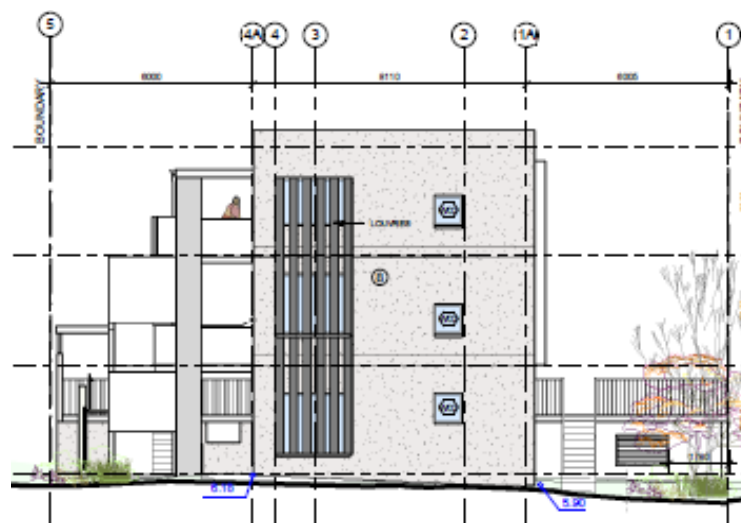


Figure 8: East Elevation – Rear Building



Figure 9: 3D perspective looking northeast.



Figure 10: 3D perspective looking southeast.



Figure 11: Street view.

VARIATIONS TO POLICIES

WLEP 2013	
Clause	4.3 Height of Buildings
Standard	13m
Departure basis	Proposed building height = 18.56m. The front building exceeds the permissible height by 5.56m which is a 43% variation.
ARHSEPP	
Clause	29 (2) (e) Parking
Standard	0.2 parking spaces provided for each boarding room in an accessible area plus one space for the manager
Departure basis	62 rooms generates the need for 12.4 car spaces which is required be rounded up to 13 car spaces. The basement car park provides 12 boarding house car spaces which is a shortfall of 2 car spaces and a variation of 14.3%.
WDCP 2013	Chapter 2.11 Parking and Access
Clause	3.2
Standard	Business premises require 1 space per employee plus 1 space per 40m ² . The retail floor space = 75m ² . Therefore 3 retail car spaces are required. There are no retail spaces provided on site therefore a 100% variation is required. The variation to the retail tenancy parking can be considered reasonable in this instance due to the proximity of the site being located approximately 60m from the pedestrian entrance to Wyong Railway Station. The station includes a large commuter car park and there is provision for on-street parking in and around Howarth Street. It is envisaged that the retail premises are likely to be mostly utilised by commuters who do not require car parking to visit the shop.

SUBMISSIONS

Submissions from the public.

The application was notified in accordance with WDCP 2013 – Chapter 1.2 Notification of Development Proposals from the 29 April 2016 to 13 May 2016 with 3 submissions and 1 petition with 46 signatures received. The general issues raised in relation to the proposal are discussed below.

Traffic & Parking

Concern has been raised regarding the existing parking problems and the impact of the proposal on the existing issues. The area to the east of the railway line is impacted by commuter car parking and the weekends have an inundation of traffic particularly during winter due to the sporting fields at Baker Park and various church services.

Comment

The development provides car parking, motorbike and bicycle parking for the boarding house. Although a shortfall of one resident car space, the provided parking is considered reasonable given the close proximity of public transport, shops and services which may encourage people to rely less on the need for private vehicles.

The proposed retail premises will not have parking on the site. It is envisaged that the retail premises will mostly be used by commuters who are utilising the commuter and public car parking in the area resulting in dual use trips. The employee of the retail premises will also be required to use public car parking in the locality however this is only required throughout opening hours, not during evenings. The close proximity of public transport would also provide flexibility for employees.

It is noted that commuter parking does impact the local streets; however there is an underutilised commuter carpark which is located in Rose Street approximately 260m from the pedestrian overbridge at the railway station.

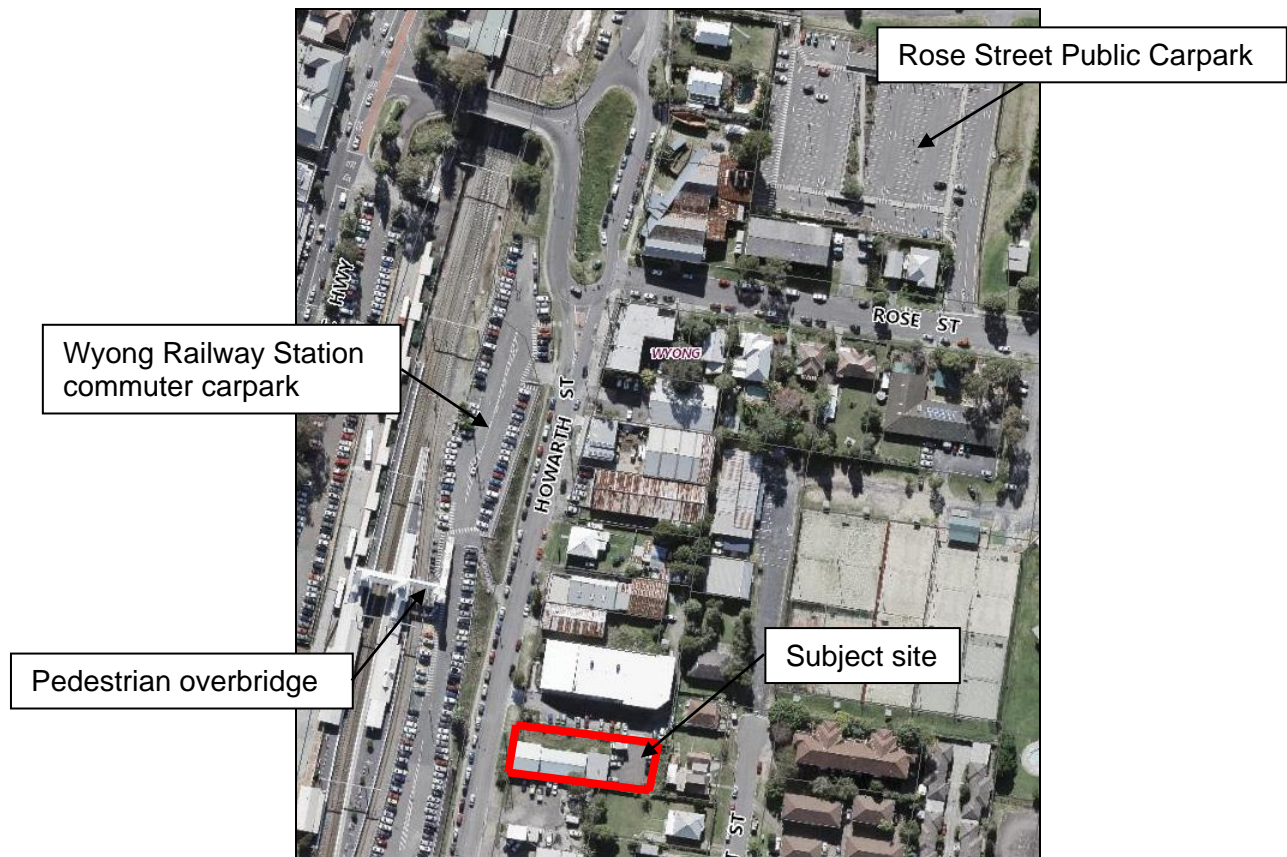


Figure 12: Location of Rose Street public carpark in proximity to the railway station and subject site.

Weekend car parking as a result of the Baker Park sporting fields does create additional demands on the local street network particularly during winter. However site visits during these peak times found on-street car parking generally does not reach as far as Howarth Street on weekends. There can be some delay departing the area (over the Rose Street bridge) through peak periods due to the start and finish times of the sporting fixtures. It is noted that the future upgrade of the Pacific Highway and the Wyong Railway Station will consider the traffic and parking issues presently experienced. The commuter carpark in Rose Street is to be expanded with the upgrade works and the road works will also reduce the highway traffic congestion.

Existing Social Issues Increased

Concern is raised over the inclusion of an additional low cost housing development in the area. It is suggested that this type of residential development will further attract people of a low socio-economic background to the area. It is suggested that social issues such as unsavoury behaviour, graffiti and crime will increase. The addition of this and the boarding house which is located further south on Howarth Street will further add to the social issues of the local area.

Comment

The proposed development is presented as a new generation type boarding house which is designed with self-contained rooms. This type of boarding house is aimed at people who are requiring temporary accommodation of at least three months who do not want to be permanently committed to a residential property. This is suited to students, key workers, empty nesters and/or those seeking a more affordable lifestyle close to amenities and transport. Boarding houses are considered affordable housing because they are generally offered at a lower rental cost. The EP&A Act defines affordable housing as:

“Affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument”.

Where a boarding house is operated privately, the rent is at the discretion of the operator within this definition.

The proposed boarding house will be privately operated and appropriately managed with a live-in manager and part time managers. There is a Plan of Management (POM) which identifies the requirements of occupying a boarding room and the rules and regulations which are to be followed by the occupants. All occupants are required to abide by the rules and the managers will ensure that the POM is adhered to. The developer has commented that the occupants intended for this boarding house are key workers and those that may require short term housing due to work commitments. The Social Impact Assessment (SIA) has commented that people on income support payments from the Government will not be accepted as lodgers.

The recently approved boarding house at 27-31 Howarth Street also includes a POM to which the development is to be managed accordingly. The managers of the boarding houses are to provide residents within a 200m radius of the developments a copy of the relevant contact details in the event that contact is required.

The former Wyong Shire has a high number of households in housing stress and over 50% of these are very low and low income renters. The Wyong area is experiencing a high level of disadvantage and housing stress and there is demand for affordable smaller dwellings. The need for affordable housing and rental accommodation is high and boarding houses are an important source of accommodation.

Council's *Promoting Choice: A Local Housing Strategy for Wyong Shire* (2008) and *Planning Controls to Support Housing Affordability & Choice in Wyong Shire Study* (2013) identifies that a high number of households in the former Wyong Shire are in housing stress. At the 2001 Census, 14,000 households in Wyong LGA were in housing stress (paying more than 30% of their income on rent or mortgage). This equates to 25% of all households and over 50% of these are very low and low income renters. There is a need to ensure affordable housing is appropriately located, well designed and integrated both physically and socially into the local area. The Strategy promotes new affordable housing options and housing choice to meet the needs and changing demographics of the former Wyong Shire. The proposed boarding house is considered to be consistent with this direction.

The design of the proposed development has taken into account the principles of Crime Prevention Through Environmental Design (CPTED) and includes closed-circuit television (CCTV) to assist with the surveillance of the site. The proposed boarding house is a suitable development for the site due to the close proximity of shops, transport, social and health services.

Devalue local property

Concern has been raised that the proposed boarding house will devalue property values in the local area.

Comment

Property value is not a matter for consideration under section 79C of the EP&A Act. The proposed boarding house is located within a B4 Mixed Use zone and adjacent to land zoned R3 Medium Density Residential. The area is identified for future growth in Council's vision for the Howarth Street Precinct area and mixed use developments are encouraged. The development is consistent with the zone objectives in that it will provide a mixture of compatible uses, maintain active street frontages and maximise public transport patronage. Some redevelopment in the locality has begun with higher density residential forms being proposed on a number of blocks in the area. It is envisaged that the adjoining properties will be redeveloped in the future.

Sewer and Stormwater Services

Concern was raised over the development's stormwater drainage and the proposed relocation of the sewer line.

Comment

The development is required to provide suitable stormwater drainage in accordance Council requirements. The development is to utilise the stormwater easement adjacent to the northern boundary for stormwater disposal. The sewer line is proposed to be relocated either within the basement of the building or within the easement located on the adjoining property to the north. If the option is taken to relocate the sewer line to the easement, the developer will require the adjoining property owner's permission. Legal mechanisms are available under the *Conveyancing Act 1919* to facilitate these arrangements.

Privacy – overlooking from balconies

Concern has been raised that residents of the boarding house will be able to overlook adjoining properties from the balconies.

Comment

The rooms in the front building have balconies overlooking Howarth Street and providing passive surveillance and balconies which view toward the central courtyard. These balconies are approximately 38m from the rear boundary.

The rooms in the rear building have balconies on the northern side of the building. The balconies on level 1 and level 2 some have potential to overlook property to the north and east however the views are minimised by the design of the balconies which have the common wall of the rooms extending through to the edge of the balcony. The eastern most balcony also has a return on the balcony to minimise overlooking. It is also noted that these balconies are more than 6.2 metres from the rear boundary.



Figure 13: Approximate location of rear building shown in red with direction of views shown in red arrows.

As shown by the aerial photo, the view to the north will be of the car park and St Vincent De Paul building while the balconies will have a view to the north east of property in Levitt Street. The distance between the balconies and the open space areas of the properties to the east is considered to be a suitable separation distance to reduce direct overlooking impacts. Privacy screens have been added to the breezeway the front building to minimise overlooking to the north and south. A condition of consent can be included to provide screening at the end of the stairs and balconies of the rear building to also minimise overlooking to the east.

External Consultation

The application was referred 'NSW Transport - Sydney Trains', Ausgrid and NSW Police Force for comment only.

Ausgrid

Ausgrid reviewed the proposal and determined that the proposed building met the clearance requirements for the Ausgrid power poles and electricity lines.

NSW Transport - Sydney Trains

NSW Transport - Sydney Trains reviewed the proposal under Clause 85 of SEPP (Infrastructure) 2007 and asked that several conditions of consent are included in the event the development application is approved. Those conditions are included in the recommended conditions of consent.

NSW Police Force – Tuggerah Lakes Area Command

NSW Police Force – Tuggerah Lakes Area Command provided an assessment against the principles of CPTED and included several conditions of consent to be included in the event of the development application is approved. Those conditions are included in the recommended conditions of consent.

The Police acknowledge boarding houses as playing an integral role in the provision of affordable housing. There are also residents who choose to live in boarding houses as it suits their lifestyle such as the new generation boarding house the subject of this development application. The Police have experienced boarding houses being used for backpacker accommodation and emergency housing which can lead to complaints in relation to offensive behaviour and noise. The POM in relation to the property is to be implemented to appropriately manage the boarding house and any disputes. Conditions of consent are proposed requiring compliance with the POM.

Internal Consultation

Council's Senior Development Engineer – no objection subject to appropriate conditions of consent. It was noted that the proposed development requires building over a Council sewer line. The development will need to comply with Council's "Policy for Building Over or Adjacent to Sewer Mains". Details are to be provided in the section 306 letter to be issued for the proposed development.

Council's Traffic & Transportation Engineer – no objection subject to appropriate conditions of consent.

Council's Senior Building Surveyor – no objection subject to appropriate conditions of consent.

Council's Urban Designer

The proposal was reviewed by Council's Urban Designer throughout the assessment process. Where items were raised of concern they were discussed with the applicant for consideration.

Several issues were identified with the initial application which included location of communal open space, design of amenities, room layout, accessibility and external façade treatments. The façade treatment of the rear building was required to be improved to suitably integrate with the front building. The north and south elevations required additional treatments to enhance the facades and reduce the bulky appearance. Additional treatment by way of a painted finish along the lower levels was provided which has improved those façades (see figure 10). This has resulted in a more pleasing and interesting appearance.

The proposed street frontage was generally considered to be good and commensurate with the desired character for the area of mixed use and medium density development. The building façade has been designed with a mix of elements and materials which create diversity to the building's volume and shape reducing the impact of the five storey height in the interim period until the Howarth Street precinct is developed.

The proposed design incorporates generous communal areas by way of a large communal room on the ground level of 106m² and adjoining outdoor area of approximately 185m². There is additional open space surrounding the rear building which is accessible by stairs and wheel chair lift. The outdoor areas have ample space for amenities such as barbeques and seating. Landscaped areas surround the building at the rear and provide good deep soil areas and contribute towards positive amenity.

The proposed design is considered to be of a suitable built form and compatible with the desired character of the area. While the policy allows for zero lot walls, it is considered that the side elevations could provide more visual interest which could include additional pattern to the walls and/or colour to break up and reduce the perceived scale of the walls. A condition of consent will be included to require some additional design treatment to improve the appearance of these walls.

Council's Senior Environmental Health Officer

Council's Senior Environmental Health Officer reviewed the submitted Acoustic and Vibration Assessment regarding the proposed development. No objection was raised regarding noise and vibration subject to the development being constructed in accordance with the recommendations in the report. A condition of consent should be included requiring certification from a suitably qualified professional that the development has been constructed in accordance with the report prior to the issue of an Occupation Certificate.

Council's Section Manager - Social Planning

Council's Social Planner was generally supportive of the proposed boarding house as they are an important source of affordable residential accommodation. The need for affordable rental housing is high in the Wyong area and over 50% of people in housing stress who are low to very low income renters. There is a need to ensure that affordable housing is appropriately located, well designed and integrated physically and socially into the local area.

The proposed boarding house is similar to a "new generation" type boarding house which can lease rooms on or near the market rents. There are examples of micro living apartments in Sydney that are being offered at 20% below market rents. The Social Impact Assessment (SIA) appears to suggest that the proposed boarding house is to operate similar to the micro living apartments found in other areas.

A SIA supported by evidence-based research has been prepared by James Marshall & Co and submitted to support the development application. The research included demographic and housing analysis, and identifying the stakeholders that may have potential social impacts.

The SIA acknowledges that due to affordability and accessibility it is often people on low income or those with a limited or poor tenancy history that seeks boarding house accommodation. Other occupants might be those needing a temporary form of accommodation, such as those who have experienced domestic violence, family breakdown or those just needing somewhere to stay between more permanent living arrangements. However, the SIA comments that this boarding house will be targeted at those who are employed and seeking a more affordable lifestyle choice with accommodation offered to students, key workers and singles or couples, empty nesters, middle aged men or women.

The SIA identified some potential adverse social impacts and measures which can be implemented to mitigate these impacts. The proposed mitigation measures are viewed as appropriate positive measures that can be put in place to minimise potential adverse impacts. Many of the measures rely on active management and good design. Some of these issues which involved design changes have been undertaken in the final design. Good management and implementation of the POM are important to the successful and safe operation of the boarding house and appropriate conditions have been proposed to provide for this.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, Council's policies and Clause 149 Certificate details, the assessment has identified the following key issues, which are discussed for Council's information.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

a) Wyong Local Environmental Plan 2013

Permissibility

The subject site is zoned B4 Mixed Use under the WLEP 2013.

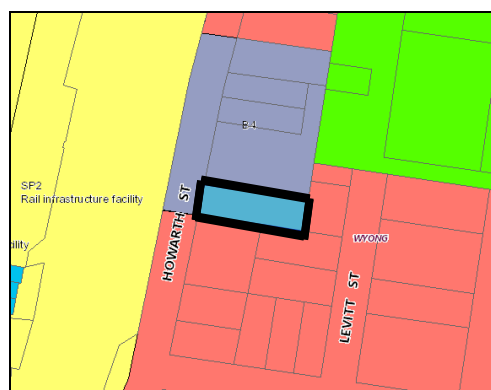


Figure 14: Zone map with subject site outlined in black.

The proposed development is defined as a mixed use development comprising a retail tenancy and boarding house.

The definition of mixed use development is:

“mixed use development means a building or place comprising 2 or more different land uses.”

The proposal comprises of retail premises and a boarding house. Retail premises means:

“a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,*
 - (b) cellar door premises,*
 - (c) food and drink premises,*
 - (d) garden centres,*
 - (e) hardware and building supplies,*
 - (f) kiosks,*
 - (g) landscaping material supplies,*
 - (h) markets,*
 - (i) plant nurseries,*
 - (j) roadside stalls,*
 - (k) rural supplies,*
 - (l) shops,*
 - (m) timber yards,*
 - (n) vehicle sales or hire premises,*
- but does not include highway service centres, service stations, industrial retail outlets or restricted premises.*

Note. Retail premises are a type of commercial premises—see the definition of that term in this Dictionary.

Boarding house means 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.

Note. Boarding houses are a type of residential accommodation.

The proposed development is permissible with consent in the B4 Mixed Use zone and complies with the objectives of the zone which are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To permit residential accommodation while maintaining active retail, business and other non-residential uses at street level.*
- *To encourage development that supports or complements the primary office and retail functions of the zone.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

The proposal provides retail premises and a residential boarding house in an accessible location that can maximise the use of public transport. The residential accommodation will integrate positively with the business uses at street level and provide activity on the street.

Height of Buildings

The site is subject to Clause 4.3 'Height of Buildings' in area "N" with a permissible height of 13m. The proposed front building with frontage to Howarth Street has a maximum building height of 18.56m and the rear building has a height of 9.84m. The front building has a depth of 22.9m with zero side setbacks which is 37% of the block depth. The front building does not comply with the WLEP height map and seeks a variation under Clause 4.6 Exceptions to Development Standards which is discussed later in the report.



Figure 15: Height of buildings map with subject site outlined in blue.

Floor Space Ratio (FSR)

The site is subject to Clause 4.4 'Floor Space Ratio' in area "O" with a permissible FSR of 1.1:1 which equates to a maximum permissible floor area of 1996.5m². The site also falls within "Area 1" which allows the FSR for sites larger than 1500m² to exceed the mapped ratio on a proportional scale, however as the site is less than 1500m² this option does not apply.

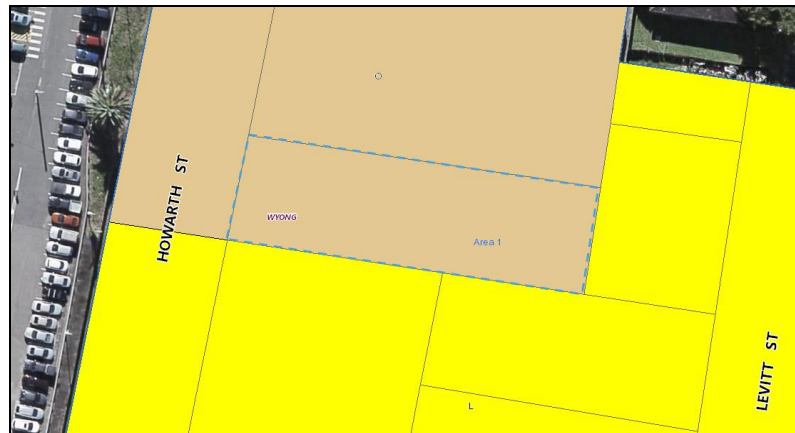


Figure 16: Floor Space Ratio map with subject site outlined in blue.

The ARHSEPP allows an additional FSR bonus of 0.5:1 which results in an allowable FSR for the development of 1.6:1. The proposed FSR is 1.42:1 which complies with the requirements.

Exceptions to Development Standards

In accordance with Clause 4.6 Exceptions to Development Standards the applicant has requested a variation to the maximum height of 13 metres for the subject site.

The objective of Clause 4.6 is to provide a greater degree of flexibility in applying certain standards to particular development. Development consent may be granted subject to this clause, even though the development would contravene a development standard imposed by the WLEP 2013. Development consent must not be granted for a variation unless the consent authority has considered a written request from the applicant justifying the variation by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the matters identified above have been adequately addressed and that the proposed development will be in the public interest as it is consistent with the objectives of the zone.

The applicant has submitted that strict compliance with the development standards is unreasonable and unnecessary in this particular case as follows:

- *The current maximum height of buildings development standard contained in the Wyong LEP (13metres) is not consistent with the desired future character, and building height outlined in the Baker Park Masterplan (6 storeys). The proposed boarding house provides a development form that is more consistent with the Masterplan.*
- *Given the lower ground level of the eastern side of Howarth Street, the building will not impair the existing view corridors from the Wyong Town Centre to the Baker Park Sporting Fields. The sightlines contained within the Masterplan will be maintained.*
- *The proposed height and density will support the additional supply of additional affordable housing within Wyong Town Centre, within a development that is consistent with council's desire future character of the locality.*
- *The proposal relocates the building height from the rear of the site to the front of the site to improve solar access to the future private open space area to the southern properties, as outlined in the Baker Park Masterplan. A development strictly complying with the height control would result in greater overshadowing impacts upon the southern property, as Building 2 would be higher in height.*
- *The rear building form contains a smaller footprint than identified in Council's DCP controls due to the reallocation of the building bulk to Building 1. A development strictly complying with the control would result in Building 2 having a reduced setback to the side and rear boundaries. This would result in a reduced landscape area and will reduce the internal amenity for the intended occupants.*
- *The additional building height will maximise the quantum of boarding rooms that receive good amenity in terms of cross-ventilation, outlook/views and solar access. A development strictly complying with the height control would result in Building 2 obscuring the outlook/views and overshadowing upon Building 1. This would result in reduced internal amenity for the intended occupants.*
- *As shown in Figure 13 of the SoEE, Council has approved the variation of the building height control on the redevelopment of 51-53 Howarth Street, Wyong. Council supported a building height of 16.325m (front) and 17.65m (rear), representing an average variation of 23% across the whole site. The variation sought for the proposed boarding house relates only to the front part of the site to ensure a consistent building edge to the Street to complement the development approved by Council. In council's assessment of the clause 4.6 variation, it is noted that the height variation was supported 'due to its consistency with the adopted Baker Park Masterplan which identifies the subject site as having a height limit of up to 6 storeys'. The proposal presents a 5 storey building form, and is consistent with council's future vision for the Baker Park Masterplan area.*

Comment

Council has inconsistent policy in relation to height in this locality. Council has established a desire for higher density development in Howarth Street through the Baker Park Masterplan and the WDCP Chapter 5.2 Wyong Town Centre. A resolution of the former Wyong Council regarding the desired future character of the East Wyong/Train Station Precinct (11 May 2016) directed that when assessing development applications for this area that the desired future character be considered. It was confirmed that the desired character includes residential opportunities ranging between 6-12 storeys in height with ground floor retail. If strict adherence was applied to the WLEP height limit, the economic use of the land would not be served or Council's desired character for the area would not be achieved.

Higher density living will contribute to the social welfare of the community by providing much needed housing stock to help meet the residential pressure in the Wyong area. The additional building height will enable a greater economic use of the land consistent with the future character of the area.

Key design features shown in the Masterplan include a continuous ground floor podium of up to 6 storeys, orienting buildings to maximise sunlight with respect to the existing urban form and maintaining view corridors through to the Baker Park Sports Fields and Wyong Pool area.

The site is located outside envisaged view corridors and the buildings have been designed to maximise solar access. The main building has been designed with zero front and side setbacks consistent with the desired ground floor podium which reinforces the street edge and urban built form.

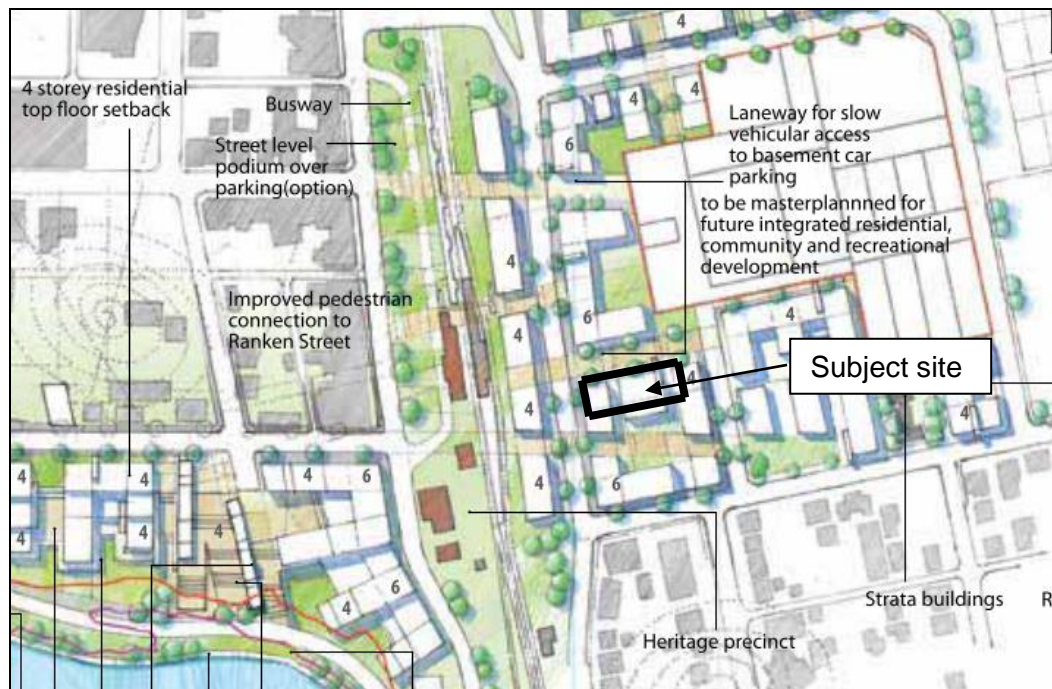


Figure 17: Extract from Masterplan as found in the Wyong Active River Foreshore and Baker Park Masterplan Report.

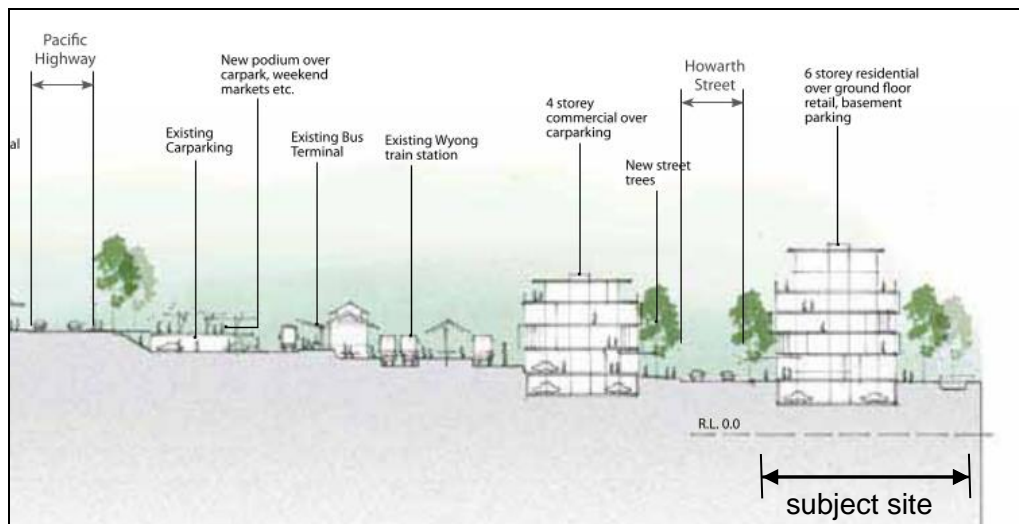


Figure 18: Indicative cross section from Pacific Highway to Howarth Street as found in the Wyong Active River Foreshore and Baker Park Masterplan Report.

Although there are no existing buildings built to the desired height, Council has approved a five storey residential flat building in 2015 at 51-53 Howarth Street and a four storey boarding house south of the subject site at 27-31 Howarth Street. There are structural elements in the vicinity of the site which are of considerable height such as the pedestrian over-rail walkway and the elevator towers at the train station. There are also older styled RFBs located in the vicinity which are three and four storeys in height.



Figure 19: Aerial photo showing location of building heights in the vicinity of the subject site.

The topography falls away from the Pacific Highway as can be seen in the indicative cross section shown in figure 18. The Pacific Highway is at an approximate RL of 15.5m, the railway is approximately 12.5m and Howarth Street is approximately 8.5m. There is a height difference of approximately 7.0m from the Pacific Highway to the subject site. Taking the ground levels into account, the height of the building at a maximum RL of 25.08m, will not extend higher than the other vertical structures in the immediate vicinity such as the railway pedestrian over-bridge which is approximately RL 27.0m (estimate based on GIS contours).



Figure 20: RFB located approx. 160m to the south on Howarth Street.



Figure 21: Photo showing the ground level differences between the east and west side of Howarth Street and the pedestrian bridge over the railway line.

An important contributor to the character of a local area is the relationship of built form on the surrounding space. This relationship is created by building height, setbacks and landscaping. It was stated in *Project Venture v Pittwater Council* that “buildings do not have to be the same height to be compatible” (*Project Venture Developments v Pittwater Council* [2005][27]). The existing height in the streetscape should also be taken into account when there is a height difference. The building design has attempted to integrate with the mixed height of structures within Howarth Street. The railway station opposite sits approximately 4m higher than Howarth Street and contains tall lift towers and a pedestrian over-bridge. To the south on Howarth Street are several three storey residential flat buildings. Therefore the immediate area does contain a variety of structures with varying heights and the height of the proposed building would integrate with this mix. Recent approvals of a five storey residential flat building (DA/857/2014) and a four storey boarding house (DA/1128/2016) confirms the desired built form for the area.

The area is developed with a mix of commercial, recreational and residential properties adjacent to the backdrop of the Wyong Railway Station, Pacific Highway and the Wyong Town Centre. The visual landscape from the Pacific Highway toward the site is dominated by the railway station and although the building will be visible, it will not dominate the vista given the existing structures between the highway and the site and the topography.

The area is also subject to the redevelopment of the Pacific Highway and Wyong Railway Station where the bus/train interchange will be relocated from the Pacific Highway to Howarth Street and the Rose Street carpark is to be expanded. The proposed building will be compatible with the desired character of the area and will provide additional housing choice in a highly accessible location near the railway station and Town Centre. Given the context of the site in close proximity to major road and rail infrastructure, commercial properties, the height variation is considered reasonable.

The proposed boarding house will be consistent with previously approved buildings and there are other buildings and structures of varying heights within the immediate locality. Considering the existing context, the proposed development is consistent with the mixed character with the area. The request for a variation under Clause 4.6 to allow a maximum building height of 18.56m is considered reasonable and will be consistent with the desired character for the Howarth Street precinct.

The proposed development will be in the public interest because it is consistent with Council’s planning strategies for the area which includes 6 storey development and aligns with the objectives of the zone. The proposal is consistent with the Baker Park Masterplan. The proposed development will provide much needed residential accommodation in the Wyong area.

Heritage Conservation

Clause 5.10(5) states that a heritage assessment may be required when a development is proposed in the vicinity of a heritage item located nearby. A formal heritage assessment was not required but consideration was given to the location of the building in proximity of the nearby heritage items and conservation area.

The Wyong Train Station and station masters’ cottage is listed on Council’s heritage inventory and is located within the rail corridor approximately 135m to the south west of the site. While the rail corridor is within the heritage conservation area of the Wyong Town Centre, the proposed development is outside the heritage conservation area.

Changes to the railway station in regard to the requirements of passengers have already compromised the architectural significance of the heritage setting. The addition of elevators and overhead walkways has also modified the character of the area to that of a more modern setting. The station masters cottage is on the opposite side of the railway station approximately 100m and there is no direct line of sight between the heritage building and the proposal. Given the varied ground levels and structures within this distance, it is considered that the proposed development will have minimal impact on the heritage significance of the railway station and station masters cottage. Additionally, the stations masters' cottage is identified for demolition as part of the Pacific Highway upgrade. The proximity of the general store is also located away from the proposed development in the nearby street of Warner Avenue.

The general store at 6 Warner Avenue is also on Council's heritage inventory. The general store at 6 Warner Avenue is approximately 100m to the south east of the proposed development and is located on a side street.

The proximity of the heritage items have been considered in the planning studies for the area. The desired future character proposed for the Howarth Street area is one of higher density which will complement the existing and future development in the area. Due to separation distance and the local topography the proposed development will not have an adverse impact on the heritage items in the local area.

Coastal Zone

Clause 5.5(2) applies to development within the coastal zone and requires consideration of specified matters prior to consent being granted. The specified matters relate to:

- maintaining existing and identifying new pedestrian access to and along the foreshore,
- the suitability of the development and its impact on scenic quality,
- the impact of the proposal on the amenity of the coastal foreshore (including shadowing or view loss),
- protection of the visual amenity and scenic qualities of the coast,
- conservation of coastal biodiversity and ecosystems, and
- the cumulative impacts of the development on the coastal catchment.

The proposal is considered satisfactory in relation to the protection of the coastal zone. The development site is within the coastal protection area as identified in the SEPP 71 mapping. The site is not located near the coastal foreshore, includes suitable drainage and is of a distance that no adverse impacts will be created on the coastal foreshore.

Acid Sulphate Soils

Clause 7.1 applies to the development as the subject site is identified as being affected by Class 5 acid sulphate soils. WLEP 2013 requires additional consideration of such land where works are within 500m of adjacent Class 1, 2, 3 & 4 soils and below 5m AHD and by which the water table is likely to be lowered below 1m AHD on Class 1, 2, 3 & 4 soils.

The proposed works are located within 500 metres of Class 4 Acid Sulphate Soils, although no substantial excavation works are proposed below RL5.00 AHD, the proposed basement level may require excavation works in the vicinity of RL 5.00 AHD therefore it is considered reasonable that a preliminary assessment in accordance with the Acid Sulphate Soils Manual be undertaken. This will be included as a condition of consent prior to the release of a construction certificate.

Essential Services

Clause 7.9 of WLEP states that development consent must not be granted to a development application unless the consent authority is satisfied that the services that are essential for the development are available or that adequate arrangements have been made to make them available. The site can access the required services.

Water and Sewer

There is sufficient capacity in the water and sewerage systems to service the proposed development.

There is a sewer main which traverses the site and the proposed development is located within the Zone of Influence (ZOI). The development will need to comply with Council's "Policy for Building Over or Adjacent to Sewer Mains".

There is also a sewer main which extends from the Wyong Train Station to the sewer main traversing the site. The basement plan shows the main being relocated to the inner side of the northern wall. The location of the main will require the main to be treated in accordance with the high rise development provisions in Council's "Policy for Building Over or Adjacent to Sewer Mains". The drainage easement located on the northern property may be suitable for co-location of the sewer main subject to negotiation with the neighbouring property owner.

Appropriate water and sewer conditions will be provided in the section 306 letter under the *Water Management Act 2000*.

b) Relevant State Environmental Planning Policies (SEPPs)

SEPP Affordable Rental Housing

The development is required to be assessed against the relevant provisions of the ARHSEPP. A summary table of how the development complies with the various requirements of the SEPP is provided below.

Table 2: ARHSEPP - Compliance Table

Clause	Comment	Compliance
Division 3 Boarding houses		
26 Land to which Division applies.	The site is zoned B4 Mixed Use under the WLEP 2013.	Yes
27 Development to which this division applies.	Development not within R2 or equivalent zone.	Yes
28 Development to which this	Division applies to proposed	Yes

Division applies may be carried out with consent.	development.	
<p>29 Standards that cannot be used to refuse consent.</p> <p>29(1)</p> <p>a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or</p> <p>b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or</p> <p>c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1</p>	<p>The existing maximum FSR as per the WLEP 2013 FSR map is 1.1:1. The SEPP provides an additional 0.5:1 as the FSR is less than 2.5:1.</p> <p>The maximum allowable FSR is 1.6:1. The proposed FSR is 1.42:1 and therefore complies.</p>	Yes

<p>29(2)</p> <p>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,</p> <p>b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p> <p>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,</p> <p>d) private open space (POS) if at least the following private open space areas are provided (other than the front setback area):</p> <ul style="list-style-type: none"> • one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, • if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation, 	<p>The maximum building height as per the WLEP height map is 13m. The proposed boarding house has a maximum height of 18.56m to the top of the roof. The height variation has been addressed via a Clause 4.6 variation request.</p> <p>N/A. Building is constructed on the front boundary.</p> <p>The development includes an indoor communal recreation room located on the north eastern corner of the front building. The room will receive at least three hours sunlight between 9am and 3pm.</p> <p>The proposal includes two areas of POS for the lodgers both in excess of the minimum requirements.</p> <p>The site manager's room has a balcony with 8m² of area POS with a minimum dimension of 2.0m.</p>	<p>No.</p> <p>Building height is being considered under WLEP Clause 4.6.</p> <p>Yes</p> <p>Yes</p>
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<p>e) parking if: (i) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and (ii) 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>f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: 12 square metres in the case of a boarding room intended to be used by a single lodger, or 16 square metres in any other case.</p> <p>A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p> <p>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).</p>	<p>The development is in an accessible area being approx. 50m to Wyong Railway Station.</p> <p>The boarding house proposal requires 13 car spaces plus 1 for the live-in manager therefore a total of 14 spaces is required. 12 car spaces are provided which is a variation of 14.3%.</p> <p>The live-in manager has a designated car space.</p> <p>The boarding room sizes are as follows: Single unit = 12m² Double unit = 16m² Adaptable units = 17m²</p> <p>The units contain private kitchenettes and en-suites in each room.</p>	<p>No.</p> <p>Proposed carparking is considered adequate due to close proximity of public transport and Wyong Town Centre and is discussed further below.</p> <p>Yes</p> <p>Yes</p>
<p>30 Standards for boarding houses</p> <p>a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</p> <p>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 square metres,</p> <p>c) no boarding room will be occupied by more than 2 adult lodgers,</p> <p>d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</p>	<p>The boarding house is for 62 rooms and provides one communal living area.</p> <p>The maximum area of the boarding rooms is 19m² which is for the adaptable units.</p> <p>The boarding rooms are for maximum of two people (double units).</p> <p>Adequate bathroom and kitchen facilities are provided in each unit.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>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,</p> <p>f) (Repealed)</p> <p>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,</p> <p>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.</p>	<p>A boarding house manager is to be provided on site.</p> <p>The proposed boarding house is on B4 Mixed Use zoned land. The ground floor of the building with frontage to Howarth Street is predominantly for commercial purposes consisting of 75m² of retail space, the boarding house entry and driveway to the basement car park.</p> <p>The proposal requires 13 spaces for bicycles and 13 for motor cycles. The proposal includes 14 spaces for bicycles and 13 for motor cycles.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>30A Character of local area.</p> <p>A consent authority must not consent to development unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p>	<p>The proposed boarding house has been found to be compatible with the character of the local area. An assessment of the proposal against the existing and desired character of the local area is found below.</p>	<p>Yes</p>

30A Character of the local area.

The aim of the ARHSEPP is to increase the supply and diversity of rental and social housing in New South Wales. Amendments introduced in 2011 included changes in relation to boarding houses which included that the consent authority must consider whether the proposal is compatible with the local character of the area.

The east Wyong area contains a mix of residential, commercial, industrial, educational, recreation and environmental areas. The development stock is aging and is becoming due for renewal. The site is located in the B4 Mixed Use zone in walking distance to the Wyong Railway Station and Wyong Town Centre. The visual catchment is made up of the railway and the town centre in the distance to the west and residential to the east, north and south with distant views of the railway carpark and light industrial uses to the north.

The issue of compatibility was reviewed under the relevant planning principles set down in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191. These planning principles evolved through establishing the compatibility of a proposal in the urban environment and can be applied in this instance. The most suitable meaning of compatibility in an urban design context is “*capable of existing together in harmony*”. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

Where compatibility between a building and its surroundings is desirable, two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions require consideration.

- *Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal’s appearance in harmony with the buildings around it and the character of the street?*

Physical impacts.

Physical impacts such as noise, overshadowing and overlooking are considered when determining the building’s physical impacts on the local area.

The proposed development is for a five storey building at the street front and a three storey building at the rear with a maximum height of 18.56m and 9.6m (approx.). The site is directly across from the Wyong Railway Station within a mixed use area. Immediately to the north is a St Vincent De Paul depot and to the south an automotive repairer and rear yard of a residential dwelling. To the east is a residential dwelling and beyond is the recreational area of Baker Park. Wyong Town Centre is across the railway line to the west.



Figure 22: Looking north along Howarth Street.

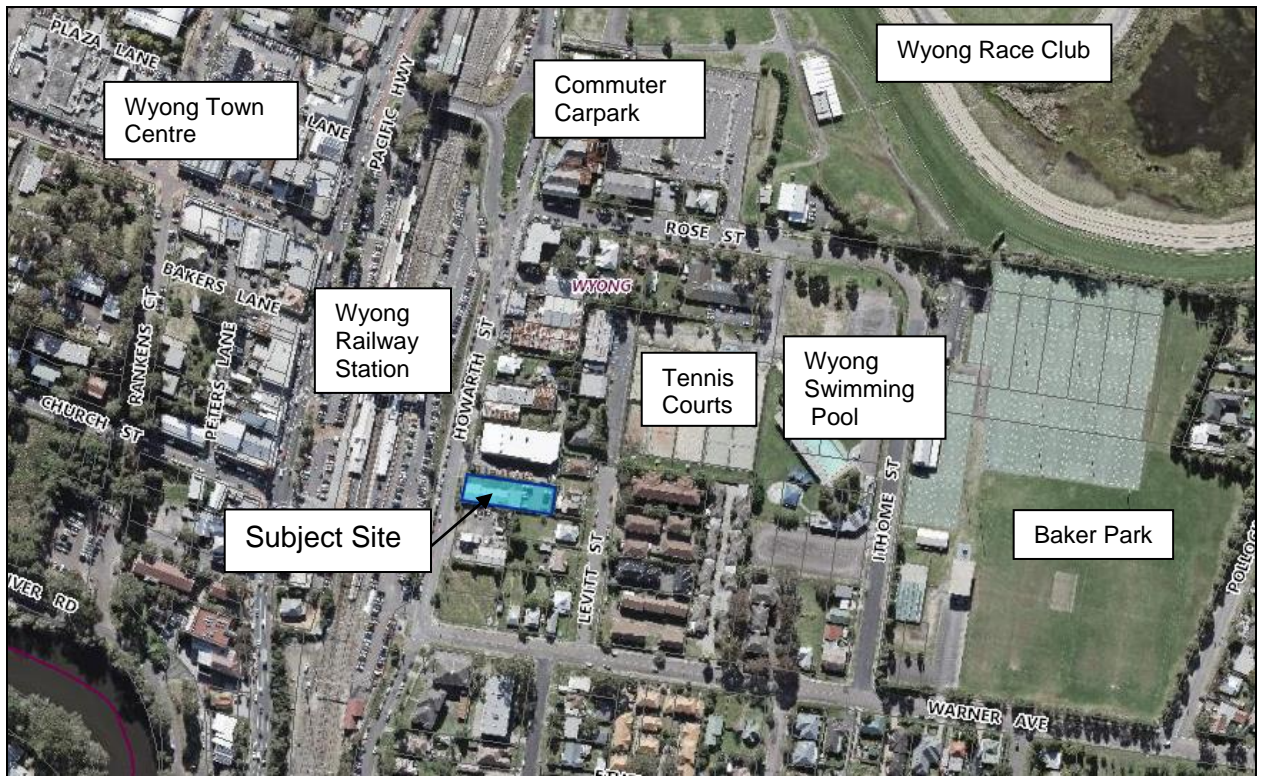


Figure 23: Aerial photo showing the locality of the site.

The proposed boarding house is expected to generate some noise commensurate with that of a high density residential development. The basement carpark will buffer noise associated with vehicles and motor cycles entering and leaving the site. Mechanical noise generated from plant equipment should be minimal as they are internal to the building. The boarding house includes a live-in manager who will monitor and manage the building operations including any excessive noise from tenants. The POM to manage the boarding house includes restrictions for the outdoor communal areas that only allow use between the hours of 7:00am and 10:00pm 7 days per week.

The orientation of the buildings is west/east and will create some overshadowing of the property to the south and east. When assessing the impacts to solar access of adjoining property, the planning principles regarding access to sunlight found in *The Benevolent Society v Waverley Council [2010] NSWLEC 1082* are considered relevant. The principles suggest that the ease of which sunlight access can be protected is proportionate to the density of the development. It is considered that at low densities it is a reasonable expectation that sunlight access will remain to some of its open space. Whereas at higher densities sunlight is harder to protect and it is reasonable to expect that sunlight cannot always be retained in its entirety. The proposed development does generate some overshadowing of adjoining properties, however given the location of the site being in a Mixed Use zone and the surrounding areas being R3 Medium Density the amount of sunlight retained is considered reasonable given the medium to high density which is envisaged for the Howarth Street precinct. The following principles are also considered relevant to the proposed development:

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

There are two sites that border the property's southern boundary, one with frontage to Howarth Street and the other with frontage to Levitt Street. The residential sites fronting Levitt Street will have some shadowing throughout the afternoon, but solar access will be available to majority of the site.

As a guide, Council's WDCP Chapter 2.4 requires sunlight to 75% of required POS for 3 hours on 21 June. As these are dwelling houses on lots wider than 10m, the WDCP Chapter 2.1 Dwelling Houses and Ancillary Structures requires they have 24m² of POS. Therefore 75% of 24m² results in 18m² required to achieve 3 hours of sunlight. The site with frontage to Levitt Street will receive adequate direct sunlight between 9:00am and approximately 1:00pm to more than 18m² of POS.

The residential site to the southeast will have a small portion of the north western corner in shade in the morning and a small portion in shade at 12:00 noon. The solar access to the site is reduced towards the afternoon with the rear yard being in shade at 3:00pm however the site will receive more than 3 hours of sunlight to more than 18m² of POS.

The solar access to rear and southeast sites is considered sufficient with approximately 70% of each site receiving sunlight for a period of three hours between 9am and 3pm on 21 June.

The site to the south is zoned R3 Medium Density Residential and is being used as an automotive repair station.



Figure 24: Shadow projections at 9am on 21 June.

The Masterplan and WDCP Chapter 5.2 Wyong Town Centre provides that the sites fronting Howarth Street (inclusive of this site) may be developed to the side boundary for up to 50% of the side boundary. This development proposes zero lot development for 37% of the boundary length. Resultantly this development does overshadow the property to the south. Given however that this property is used for a vehicle repair station and will likely redevelop to a similar built form as is proposed (zero lot lines) the overshadowing is considered reasonable.

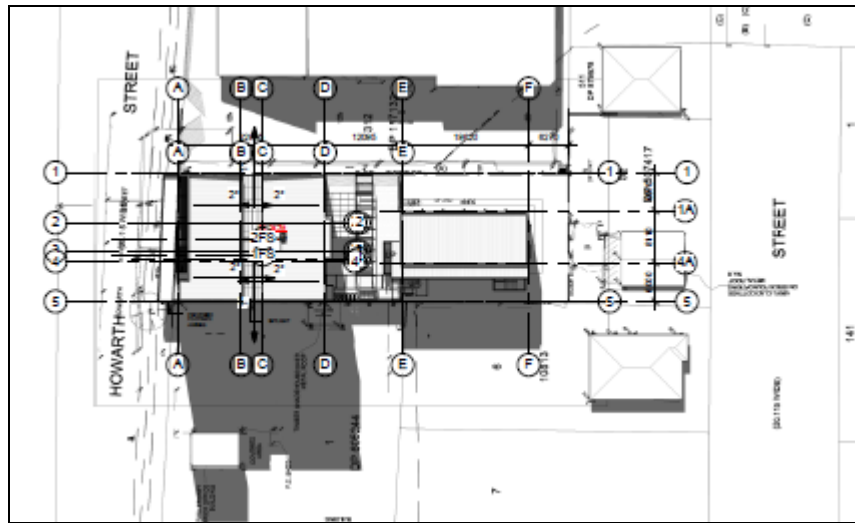


Figure 25: Shadow projections at 12 noon on 21 June.

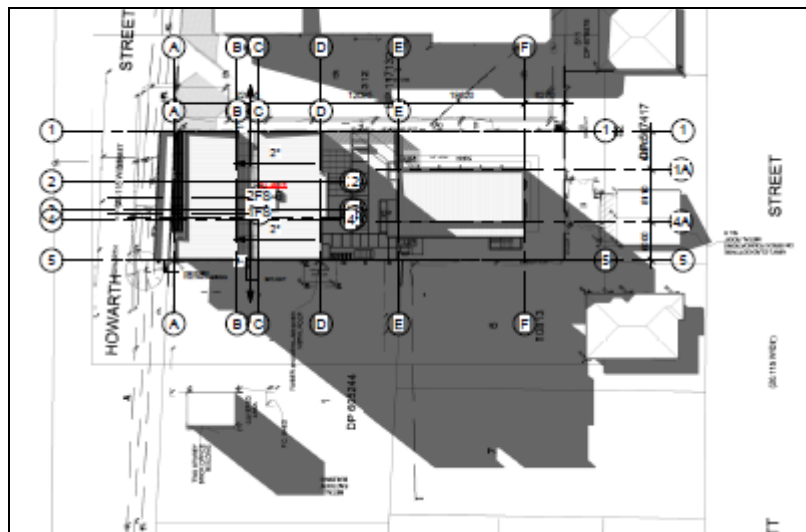


Figure 26: Shadow projections at 3pm on 21 June.

- The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.

The adjoining sites to the east and south retain a reasonable amount of solar access in comparison to the amount of overshadowing received as a result of the proposed development.

It is also noted that greater areas of POS than required by WDCP receive more than 3 hours of sunlight. The areas of the yards which are overshadowed are located to the rear of the yards and furthest from the dwellings. As such the principle areas of open space are not shadowed by the development.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

The property to the east will retain the solar access it currently achieves with a portion of the south east corner of the yard being in shadow at 3pm. With regard to the property to the south east, sunlight is received for greater than 3 hours (9am to 1pm) to the principal POS adjoining the rear of the dwelling. The property to the south is currently used as an automotive repair business and has the benefit of developing as zero lot development into the future. The property is not considered to be unreasonably overshadowed.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

The area is undergoing change. The future character of the area is envisaged as medium to high density residential living with Howarth Street identified for 6 storeys. There has been a recent approval for a five storey RFB at 51-53 Howarth Street and a four storey boarding house at the southern end of Howarth Street at 27-31 Howarth Street. The site is bordered to the east and south by the R3 Medium Density Residential zone.

The ARHSEPP includes provisions for solar access to the communal recreation room only. Therefore a merit assessment regarding solar access of adjoining properties is to be undertaken. The required solar access provisions in Council's WDCP Chapter 2.4 were considered in assessing the solar access impacts of the proposed building. The assessment shows that the required solar access to the principal POS areas is achieved to the blocks to the east and south east. Regarding the site to the south, while this block is overshadowed due to the lot orientation and zero lot development proposed, the impact is considered reasonable as into the future similar zero lot development will likely be proposed. In the interim there is no residential amenity impact. In this regard, the solar access to the adjoining properties is considered reasonable.

The building has the potential to overlook adjoining properties. When considering the potential impacts of overlooking, the general planning principles found in *Meriton v Sydney Council* [2004] NSWLEC 313 for "Protection of Visual Privacy" can be utilised as follows:

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.*

The adjoining properties to the north are zoned B4 Mixed Use, with property to the east and south are zoned R3 Medium Density Residential. The objectives of the B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To permit residential accommodation while maintaining active retail, business and other non-residential uses at street level.*
- *To encourage development that supports or complements the primary office and retail functions of the zone.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones*

The objectives of the R3 zones are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain and enhance the residential amenity of the surrounding area.*
- *To encourage amalgamation of existing lots to facilitate well designed medium density development and to avoid unnecessary isolation of lots*

The adjoining properties have the potential to develop consistently with the objectives of the zone which may include mixed use development to the north and medium density residential living to the south and east. The residential accommodation will integrate positively with the business uses at street level. The proposed development will assist with street activation and complement the land uses permissible within both the B4 Mixed Use zone and the R3 Medium Density zone. Council's adopted Masterplan for the local area identifies a desire for residential flat buildings up to six storeys in height. The proposed development is considered consistent with the desired development for the area and act as a catalyst to encourage further development of the Baker Park Precinct. Recent approvals of a five storey RFB at 51-53 Howarth Street and a four storey boarding house at 27-31 Howarth Street indicate the development types that are being considered and approved for the area which is consistent with Council's strategies, and which remain available to the properties on the neighbouring blocks.

Harmony

The relationship of the built form to the surrounding space created by building height, setbacks and landscaping is significant to the creation of urban character. The proposed development of five and three storeys is considered to be consistent with the future residential development of Howarth Street. As Howarth Street extends north the street is zoned B4 Mixed Use. The northern part of Howarth Street contains a mix of existing uses from light industrial to commercial. However future development of this stretch of Howarth Street is expected to be a mix of commercial and residential uses one of which has previously been approved.

The residential flat buildings found to the south and southeast are three and four storeys with a recent approval four a four storey boarding house. The proposed buildings will integrate with the streetscape through architectural design. The car parking is located in a basement therefore not creating an adverse visual impact on the streetscape. The proposal is architecturally designed which will improve the streetscape and visual catchment. The building has a floor space ratio of 1.42:1 which is less than the maximum allowed of 1.6:1.

The existing development in the street has a mix of setbacks with some having zero setbacks to the street frontage and side boundaries. The existing development on the subject site has zero setback to the street and the southern boundary. The WDCP Chapter 5.2 Wyong Town Centre allows zero setbacks to the front and for 50% of the side boundaries. The proposed development will be consistent with the existing setbacks of the street and the WDCP requirements.

ARHSEPP Car Parking

Clause 29 refers to those standards that if met, a development cannot be refused upon. Clause 29 (2) (e) states that a development cannot be refused if the following car parking requirements are provided:

- (i) *in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and*
- (ii) *in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and*
- (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,*

The proposed development provides basement car parking consisting of 12 car spaces. The basement is for the boarding house use only. The amount of parking required for the boarding house is 13 car spaces plus one for the manager. There is a shortfall of 2 car spaces.

The applicant requested a variation to the car parking and notes the existing sewer line traversing the site to the east as a restriction on the ability to increase the size of the basement to allow for the additional parking spaces. In addition the basement was redesigned to be outside of the zone of influence from the rail corridor located to the west.

The close proximity and accessibility of the development to public transport and the Wyong Town Centre is suggested to support the requested variation. During week days, the commuter car parking does occupy the eastern side of Howarth Street however outside of commuter hours there is street parking available which could accommodate the shortfall of two spaces. The location of the boarding house could encourage people to rely on public transport and attract those who already do.

The proposed upgrade of the Pacific Highway and Wyong Train Station includes the expansion of the existing commuter car park in Rose Street. The additional car parking will improve the car parking for commuters and residents in the locality.

The required motor cycle and bicycle parking is provided in accordance with the non-discretionary standard. The car parking requirements are such that the determining authority can consider a variation when justified. The variation to the required car parking spaces is considered reasonable considering the close proximity of public transport and the Wyong Town Centre and as the car parking requirement is not a standard that must be complied with under the SEPP. It is also noted that the location of the sewer main and railway exclusion zone does limit the expansion of the basement carpark. The variation is considered reasonable in this case.

SEPP (Infrastructure) 2007 (SEPP Infrastructure)

The proposed boarding house is not a traffic generating development as per Schedule 3 of SEPP Infrastructure. Assessment of the proposal was undertaken by NSW Transport – Sydney Trains under Clause 85. This clause applied as the proposed development is taking place adjacent to a rail corridor. Sydney Trains requested that the following items are addressed in conditions of consent:

- Certification from a qualified Geotechnical and Structural Engineer that the works will have no negative impact on the rail corridor.
- A joint inspection of the rail infrastructure and property in the vicinity of the project with Sydney Trains and the developer if Sydney Trains deem necessary.
- An acoustic assessment demonstrating that the proposal will comply with the document titled “Development Near Rail Corridors and Busy Roads – Interim Guidelines”.
- An Electrolysis Risk report is to be prepared.
- Any lights, signs and reflective materials visible from the rail corridor must limit glare and reflectivity.
- If required by Sydney Trains, a Risk Assessment/Management Plan and detailed Safe Work Method Statements are to be prepared and submitted to Sydney Trains.
- If required, a track monitoring plan is to be submitted to Sydney Trains.
- Any excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer.
- No rock anchor/bolts are to be installed into Sydney Trains property easements.

- As built are drawing are to be submitted to Sydney Trains prior to .the issue of the final Occupation Certificate confirming that there is no encroachment into Sydney Trains property or easements.
- The developer is to contact Sydney Trains Rail Corridor Management Group to determine the need for public insurance liability cover prior to the issue of a Construction Certificate.
- The developer is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of works prior to the issue of a Construction Certificate.
- Sydney Trains or Transport for NSW are entitled to inspect the site and all structures to determine if the works are being carried out in accordance with the approved plans.
- A plan showing all craneage and other aerial operations for the development is to be submitted to Sydney Trains prior to the issue of the Construction Certificate.

These matters have been included as conditions of consent.

Clause 87 requires the consent authority to be satisfied that appropriate measures have been taken to ensure certain decibel levels are not exceeded. The applicant submitted an Acoustic Assessment report which detailed that the development can meet the required maximum levels providing the recommended mitigation measures are included in design and construction. Appropriate conditions are imposed to demonstrate that the development once constructed meets these standards.

Draft SEPP (Infrastructure) 2007

The proposed development was considered against the requirements of the Draft SEPP. There were no details in the draft SEPP that would need to be applied to the proposed development.

SEPP 71 - Coastal Protection

The provisions of SEPP 71- Coastal Protection requires Council consider the Aims and Objectives of SEPP 71 together with the matters for consideration listed in Clause 8 when determining an application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the Department of Planning and Environment. The subject property falls within the Coastal Zone, but is located outside the “sensitive 100 metre zone”. The matters listed under Clause 8 and Part 4 of SEPP 71 have been considered and the proposed development complies with the provisions of the SEPP. A summary table of the matters for consideration under Clause 8 is found in Attachment 1.

State Environmental Planning Policy (State and Regional Development) 2011 (SEPP SRD)

The proposal constitutes regional development under Part 4 of SEPP SRD and as identified under Schedule 4A of the EP&A Act due to the development being for affordable housing with an estimated value of the development (exceeding \$5 million). As such, the determining authority for the development application is the Hunter and Central Coast Joint Regional Planning Panel.

c) Relevant Development Control Plans

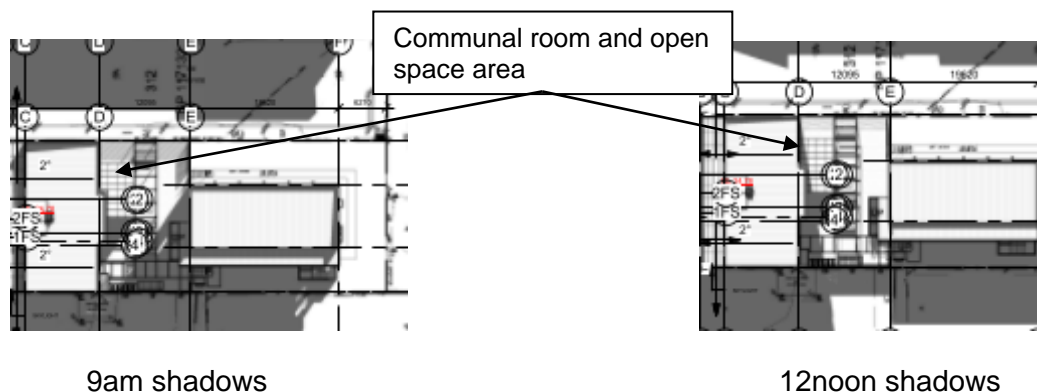
Wyong Development Control Plan 2013 (WDCP)

Chapter 2.4 – Multiple Dwelling Residential

The application has been submitted under the provisions of the ARHSEPP. The WDCP does not include specific provisions for boarding houses however the general development controls found in Chapter 2.4 were used as a guide when determining the suitability of the proposal. The proposal is consistent with the aims and objectives of the Chapter by providing variation in dwelling type that is functional and the front façade displays aesthetic quality.

Solar Access and Communal Recreation Areas

In regards to the solar access of the subject site, the development achieves the solar access requirements of the ARHSEPP. The ARHSEPP requires that where a development is proposing a communal living room, it should receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. The communal recreation room will receive at least three hours sunlight between 9am and 3pm.



The design incorporates generous communal areas by way of a large communal room on the ground level and outdoor areas which are accessible. The outdoor areas have ample space for amenities such as barbeques and seating. The area between the two buildings receives sunlight through the morning with a shadow being cast by the front building in the afternoon. The perimeter of building 2 provides a second open space area with a wheel chair lift included for accessibility. The area is landscaped and majority of the area benefits from a northerly aspect. Surrounding the perimeter of building is deep soil planting which equates to 29% of the site. The open space areas contribute towards positive amenity with landscaped areas which are accessible and suitably located.

Council's WDCP Chapter 2.4 suggests that dwellings should be orientated to allow optimum solar access for internal living. The design of the boarding house has attempted to achieve direct solar access to the maximum number of units through appropriate orientation.

Although SEPP 65 Design Quality of Residential Flat Development does not apply, the solar access recommendations of the Apartment Design Guide (ADG) can be considered as a guide. The ADG recommends 70% of the apartments receive a minimum of two hours direct sunlight between 9am and 3pm in mid-winter. The development achieves approximately 74% of rooms meeting this requirement which is greater than the minimum 70% as recommended. The solar access to the rooms is considered acceptable. It is noted that the development includes a common room and outdoor common space which receive adequate sunlight during the mid-winter period.

The proposed boarding house is consistent with the requirements of the ARHSEPP in regards to solar access which only considers solar access to the communal room. The proposed boarding house can be considered similar in built form to that of a residential flat building therefore the solar access controls found in Council's WDCP Chapter 2.4 was used as a guide when considering the solar impacts of the building on adjoining properties. The proposed boarding house will not unreasonably impact the solar access of the property to the east or south. The boarding house will generate some shadows to these properties during mid-winter but as discussed previously the adjoining sites will achieving a reasonable amount of solar access.

Setbacks

The normal setbacks that apply to residential flat buildings do not apply in this instance. The B4 Mixed Use zone allows for building to the boundary and section 3.7.2 of WDCP Chapter 5.2 in relation to the Baker Park Masterplan permits zero front and side setbacks for up to 50% of the side boundary. The design utilises these provisions and provide zero side setbacks for 37% of the boundary length. The design provides generous setbacks from the rear building to the property boundaries.

The development defines the Howarth Street edge and will activate and revitalise the streetscape. The setbacks in the rear allow adjoining property to maintain reasonable amenity.

Housing Choice

Good design responds to the social context and needs of the local community in terms of lifestyle, affordability and access to social facilities. The WDCP requires consideration be given to the social mix and needs of the community when designing RFBs. RFBs are to include units that are capable of adaptation for the occupation of disabled or aged persons. The proposed boarding house has included four rooms which have been designed in accordance with AS 4299 - Adaptable Housing to provide for disabled or elderly tenants. The basement carpark includes an accessible car space.

WDCP Chapter 2.11 – Parking and Access

Council's WDCP Chapter 2.11 does not apply to the boarding house calculation, however it should be noted that the WDCP requirement for car parking is consistent with the requirements of the ARHSEPP. The Chapter requires the greater of 1 space per 5 beds or 1 space per 8.5 beds plus staff parking. The greater in this instance is 1 space per 5 beds, which is the same as ARHSEPP. The proposed car parking has a shortfall of 2 car spaces which has been addressed earlier in this report.

The development includes 75m² of retail space on the ground floor. The commercial parking requirement for business premises is 1 space per 40m² plus 1 space for per employee. The retail premises would require 3 car spaces based on the floor area and one employee. The site does not propose parking for the retail premises. It is envisaged that the shop will be visited by commuters who would not need car parking as they have already parked and are undertaking a dual purpose trip. Additionally, it has been noted in site visits that there is parking available on the eastern side of Howarth Street and in the surrounding street network, and a public carpark is located in Rose Street which is a short walk. The employee would be able to park within close proximity to the premises. The location of the proposed boarding house is approximately 60m from the entry of Wyong Train Station where trains and buses are readily available. Given the close proximity of the site to public transport which supports employees who do not drive or rely on public transport and the target patron being commuters not needing a car space, the variation to allow no parking on site for the retail premises is supported.

WDCP Chapter 3.1 Waste Management

A Waste Management Plan has been submitted which identifies appropriate waste management proposals for the development including storage, handling and disposal of waste and recyclable materials. The ground level includes a garbage room with eight bins identified. Based on waste generation, the waste removal can be achieved with seven bins and two pick-ups per week. The room will be appropriately ventilated in accordance with Building Code of Australia (BCA) requirements.

WDCP Chapter 5.2 Wyong Town Centre

The proposed development is subject to the WDCP Chapter 5.2 Wyong Town Centre. The proposal is consistent with the objectives of the Chapter. The proposal is a mixed use, higher density residential development located near the Town Centre which is consistent with the vision for the Town Centre by providing higher density living in the Baker Park area that compliments the surrounding residential development. The development is considered to make a strong statement to community identity through built form and contributes to a variety of housing and lifestyle choice. The WDCP includes special provisions for specific areas including the Baker Park Precinct.

The proposed development is consistent with the objectives of the Baker Park Masterplan by:

- promoting the integration of basement car parking for all developable sites in particular residential apartment buildings,
- creating stronger identity through built form differentiation and diversity,
- creating residential opportunities through the provision of more floor space with higher density residential development ranging between four and six storeys, and
- maintaining and enhance where possible the amenity of the Baker Park area.

The following requirements are to be considered with development in the Baker Park area:

Item	Requirements	Response
a	Maintain view corridors from the Wyong Town Centre to Baker Park Sports Fields and Wyong Pool.	The proposal is located on a site identified to be developed under the Masterplan.
b	Promote view corridors to recreational open space at Baker Park Sporting Fields to the east of the site	The proposal will not affect view corridors.
c	Promote views looking north over Wyong Race Club	The proposal will not affect views looking north to the Wyong Race Club.
d	Maintain a view corridor from Alison Road looking east across Wyong Station to the Baker Park Precinct	The proposal will not interrupt a view corridor looking east from Alison Road towards the Baker Park area.
e	Orientate apartment buildings to maximise northern aspect for sunlight into living areas whilst respecting the existing urban block form.	The development has been designed to maximise solar access with respect to the orientation of the site.
f	Provide noise attenuation measures to achieve adequate amenity for lots fronting Howarth Street and the Main Northern Railway Line	Noise attenuation measures in the form of glazing, insulation and unbroken north and south walls have been provided in the building to ensure reasonable internal amenity is achieved.
g	Address the presence of existing high voltage power lines for development of lots fronting Howarth Street	The building basement has been setback more than 2.5m from the exclusion zone associated with the high voltage power lines.
h	Provide high density residential development with low level retail space at ground floor along Howarth Street on the eastern and western sides close to the railway line	The proposed boarding house is providing the maximum density permissible under the ARHSEPP and also provides ground level commercial premises fronting Howarth Street.
I	Reinforce the existing urban grid and block structure between Warner Avenue and Rose Street	The subject site is located between Warner Avenue and Rose Street and will not alter the existing urban grid and block Structure and will present a strong street edge.
J	Ensure housing choice and mix is determined through a consideration of the whole precinct, not only particular lots or street frontages	The majority of the surrounding precinct has yet to be developed although there are a number of town house developments and walk up style three and four storey RFBs. The proposed boarding house will provide a different housing option than the approved residential flat building at 51-53 Howarth Street (DA/857/2014). This delivers housing mix.

k	Provide for a mix of apartments, and attached dwellings across the site. The housing mix should generally be promoted as having a high quality urban character	The boarding house will have a high quality urban character which complements the desired future character of the area. The boarding house includes four adaptable units to cater for disabled and/or elderly tenants. The development will contribute towards a mix of residential accommodation in the area.
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The WDCP includes specific setback controls for development in a B4 zone which includes:

For mixed-use development above two storeys, a zero front boundary setback is permitted except where a heritage setback is required. A zero side setback is permitted for the front 50% of the side boundary above two storeys. For the rear 50% of any side boundary above two storeys and for any rear boundary above two storeys, the building line requirements of Chapter 2.4 Multiple Dwelling Residential Development will apply.

The proposal is consistent with the setback requirements as it provides zero setback for the front setback and for the first 37% of the side boundary. The rear boundary is consistent with the setback requirements of Chapter 2.4 of 6m from the side and rear boundaries for development of three storeys.

THE LIKELY IMPACTS OF THE DEVELOPMENT

a) Built Environment

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of WDCP compliance and in terms of the submissions received.

Site Context and Local Setting

The site is located midway between Rose Street and Warner Avenue directly across the road from the Wyong Railway Station. The architectural appearance of the building is modern with an interesting facade and will improve from the scenic qualities of the local setting. The north and south elevations which are unbroken for acoustic privacy and zero lot reasons require additional treatments to add variation and reduce the appearance of bulk. The design features will improve the façade and will result in a more pleasing appearance from these angles. It is noted that into the future, zero lot development on adjoining sites are likely to cover all or parts of these walls.

The size of the development is consistent with the desired character for the area. The development will assist to further encourage development in the precinct which has commenced with the recent approvals for higher density residential living. The Baker Park Masterplan defines the vision and direction for the development of the locality.

Although there will be some amenity impacts to surrounding development (including parking, shadowing, privacy, visual and acoustic impacts), these impacts are not viewed as unreasonable in the transitioning context of Howarth Street precinct area.

The main building with frontage to the street has been designed with zero setbacks to the front and side boundaries. This development control is located in WDCP Chapter 5.2 Wyong Town Centre. In the B3 Commercial Core and B4 Mixed Use zones, Chapter 5.2 generally permits zero building setbacks to all boundaries except where a heritage setback is required or the proposed development could cause excessive overshadowing to public places. The Chapter permits mixed use development in the B4 zone a zero side setback for the front 50% of the side boundary when a building is over two storeys. The rear 50% of any side boundary is to adopt the building line requirements of WDCP Chapter 2.4 Multiple Dwelling Residential Development. The development has generally been designed in accordance with these requirements. The front building will not cause excessive overshadowing as a result and a heritage setback is not required. The rear building has 6m side and rear setbacks to the boundary with the walkway approximately 3.5m to the boundary and the stair approximately 1.8m to the boundary. As previously mentioned, there are no specific development controls for boarding houses under Council's WDCP and the numerical controls are used as guide.

Access and Parking

The proposed boarding house contains 62 rooms. The number of rooms is of a concern to some nearby residents in regards to the lack of proposed parking. As previously mentioned in this report, the number of motor bike and bicycle spaces comply with the requirements of the ARHSEPP. However there is a shortfall of five car spaces when considered against the ARHSEPP and Council's requirements for car parking.

The submission of the development application includes a Traffic Impact Assessment which concluded that the proposal will not adversely affect existing traffic conditions or overburden on-street parking facilities. On several visits to the site it was noted that the train station does attract additional on-street parking in the area with commuter parking. The upgrade works proposed for the Pacific Highway and Wyong Railway Station include expansion of the existing commuter carpark in Rose Street and will improve commuter car parking as part of the upgrade.

As outlined earlier the variation is supported in this instance due to the site location and proximity to shops, services and public transport.

The car park associated with the boarding house is located in the basement therefore there will be no adverse impact to the residential properties to the east or future development of adjoining sites as a result of external parking.

The proposal seeks a basement carpark containing 12 spaces only and accessed via a one-way circulation ramp along the southern boundary. Concerns were originally raised regarding the potential for vehicles to reverse back out into the road reserve as prohibited under Section 3.2.2 from AS/NZS 2890.1 (2004) - "Off-street car parking".

Following a detailed telephone discussion with the consultant traffic engineer, a one-way entry priority was deemed appropriate, in this instance only. The consultant certified that the “3.0m width driveway will comfortably accommodate the likely traffic demand generated by the boarding house and retail tenants. It should be noted that the majority of traffic accessing the basement will depart the site in the morning and return in the evening”. During this conversation, it was determined that the in / out conflict potential through the driveway would be negligible due to the proposed development type (boarding house) and the provision of only 12 residential car spaces. Any rare instances in which conflict may occur can be adequately nullified through the one-way entry priority system. The entry will include a traffic light system with priority given to the entering vehicles. A condition of consent is included with this requirement.

The development will necessitate the completion of road infrastructure in accordance with the relevant provisions of Council’s Civil Works Design Guidelines. The development requires the provision of a new driveway crossing and layback and reinforced concrete footpath for the entire site frontage. Full footway formation from the top of kerb to the property boundary is recommended.

Drainage, Water and Sewer

The site currently falls to the rear. The stormwater is directed to a pit located in the north eastern corner of the property which then flows to Council’s drainage easement adjacent to the northern boundary on the property to the north. The stormwater drainage system incorporates rainwater re-use, basement pump-out and on-site detention.

An on-site stormwater detention and drainage system will be required to control the rate of runoff leaving the site. The detention system must be designed to attenuate post development flow rates to predevelopment flow rates for a full range of storm durations for the 5, 20 and 100 year average reoccurrence interval (ARI) design storms.

Additional water quality measures will need to be provided to treat stormwater runoff from proposed paved areas.

The proposed development is located within the Zone of Influence (ZOI) of the 2 x 150mm AC sewer mains traversing the property. Therefore, the development will need to comply with Council’s “Policy for Building Over or Adjacent to Sewer Mains”. Suitable protection of the 200mm AC water main within the road reserve will also be required during works.

The relocation of the existing 150mm asbestos cement sewer main servicing Wyong Train Station into the Easement for Drainage burdening the adjoining property 45-47 Howarth Street is required. Written consent from the owners of this property shall accompany the relocation plan. The relocation plans shall be approved by Council prior to the issue of any Construction Certificate and is included as condition under the Section 306 letter of the *Water Management Act 2000*.

There is sufficient capacity in the water and sewerage systems to service the proposed development and appropriate conditions are imposed.

Safety, Security and Crime Prevention

The building has been designed with safety, security and crime prevention considered. A Crime Risk Assessment has been undertaken by the NSW Police and through the Social Impact Assessment. The assessment reviews the development against the principles of Crime Prevention Through Environmental Design (CPTED) which are surveillance, access control, territorial reinforcement and space management.

Surveillance

Natural surveillance is achieved when those in open space can be seen by others. The building design, landscaping and lighting is important aspect of this requirement. Technical/mechanical surveillance is achieved through mechanical and electronic measures such as Close Circuit Television (CCTV) and mirrored building panels.

The boarding house can achieve both natural and technical surveillance through the ability of occupants to view surrounding areas and streets, the implementation of CCTV and through the on site management of the boarding house. There are conditions of consent recommended for inclusion to ensure these items are satisfied.

There is a proven correlation between poor lighting and the fear of crime resulting in an avoidance of public places. There are conditions recommended for inclusion in development consent which requires that adequate and uniform lighting be ensured in the car parking area. Problem behaviour is more likely to occur in dimly lit or dark areas where the opportunity to hide is available. The basement will also need to be painted in a light colour to help avoid dimly lit areas. A condition of consent will include this requirement.

Territorial Reinforcement

Territorial reinforcement occurs when people have a sense of ownership or guardianship over an area. These people are more likely to provide supervision of an area or intervene in crime than passing strangers. Territorial reinforcement of a space includes such items as boundary markers and spatial legibility which communicate to propel where they should and shouldn't be. This element is achieved through the implementation of clearly defined entry points into the building, footpath and provision of an awning.

Space Management

Space management strategies are an important factor in creating natural community control. Space management involves the formal supervision, control and care of the development. The local area is subject to graffiti attacks. Research has shown that the most effective strategy for reducing graffiti attacks is quick removal. A condition of consent is included requiring the quick removal of graffiti. Space management of the boarding house will be implemented through the on site management of the facility and the Plan of Management.

Access Control

Access control treatments include way-finding, desire-lines, formal and informal pathways, landscaping and fencing. Technical access control includes the employment of security hardware and on-site guardians such as security guards. The development includes formal pathways, driveway and clearly identifiable entries. The boarding house includes a live-in on site manager and part time managers who provide technical control.

The proposed development is considered to be satisfactory in terms of impacts on the built environment.

a) Natural Environment

The site is currently developed with minimal natural features. There will be no significant impact upon the natural environment as a result of the proposal.

All other relevant issues regarding the likely impacts of the development have been discussed throughout this report. In general, it is considered that the property is suitable for a mixed use development consisting of ground floor commercial premises and boarding house subject to conditions.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

Sustainable building design: A Section J sustainability report which deals with the energy efficiency requirements of the BCA for class 3 to 9 buildings will be prepared and submitted prior to release of Construction Certificate.

Reduced Car Dependence: There are bus stops located in close proximity of the site that are serviced by Busways Service. The site is directly opposite the train station and the bus interchange is on the western side of the station. The Pacific Highway upgrade works to be undertaken in the future include the upgrade of Howarth Street where the bus and taxi interchange will be relocated.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

A review of Council's Land Information mapping identifies the following constraints:

- Acid Sulphate Soils

As previously discussed, the acid sulphate soils map identifies the site as being within a Class 5 soils area. It is considered reasonable to require a Preliminary Assessment of the site in accordance with the Acid Sulphate Soils Manual due to the excavation required for basement parking. A condition will be included with this requirement.

There are no other constraints that would render the site unsuitable for development.

THE PUBLIC INTEREST (s79C(1)(e)):

The public interest is best served by the orderly and economic use of land for which it is zoned. The proposed development is permissible with consent and generally complies with the provisions of the ARHSEPP and the relevant Wyong policies and controls. The proposal is considered to be in the public interest by providing housing to assist with the current housing shortage. Council has also identified a need for higher density housing through the WLEP 2013, WDCP Chapter 5.2 Wyong Town Centre, Wyong/Tuggerah Planning Strategy and the Baker Park Masterplan. The wider interests of the public are served through access to higher density housing and a greater degree of housing choice such as the proposed boarding house.

Wyong / Tuggerah Planning Strategy

The Wyong/Tuggerah Planning Strategy outlines Council's vision for the Wyong/Tuggerah area with a range of actions to achieve these visions. This Strategy provides a starting point from which future planning can be undertaken and the current planning framework amended. This future planning includes the implementation of the Active River Foreshore and Baker Park Masterplan. This Masterplan concentrates on specific areas which includes the Baker Park area east of Wyong Railway Station.

The Strategy aims to encourage high density residential living in walking distance to the town centre and public transport. The proposed boarding house will assist with the development of the Wyong Town Centre as a hub of activity in the northern part of the Central Coast.

Wyong Active River Foreshore & Baker Park Masterplan

The Active River Foreshore and Baker Park Precincts are referenced within WDCP Chapter 5.2 Wyong Town Centre. The proposed boarding house is consistent with the higher density residential living as promoted in the Baker Park Masterplan.

Council encourages the redevelopment of the Howarth Street precinct. The Baker Park Masterplan has been supported by a resolution of the former Wyong Council for the “East Wyong Train Station Precinct” which affirms that the following Urban Design Guidelines are to be considered when assessing proposed development in the locality:

- Create additional residential opportunities by providing high density residential development along Howarth Street ranging between 6-12 storeys in height with ground floor retail uses,
- The creation of a complementary mix of uses and types of buildings and spaces which are compatible with the high activity locality,
- Ensure that all new development defines the street edge,
- Activate the street with uses which stimulate activity and promote a sense of vitality,
- Promote the growth of East Wyong as a self-contained vibrant Commercial centre,
- Parking and service areas are located within basement parking, or located towards the rear or middle of a lot and accessed from Levitt Street,
- Development is to provide for a landscaped pedestrian /cycleway linkage between the railway car park and footbridge on the western side of Howarth Street through opposite properties eastward toward the recreational facilities in Ithome Street,
- The encouragement of Transit Oriented Development that will increase access to public transport.

The proposal is considered consistent with these guidelines.

OTHER MATTERS FOR CONSIDERATION

Section 94 Contributions

The property falls within the Wyong District S94 Contributions Plan & Shire Wide s94 Contributions Plan. There are no S94 Contributions affecting the commercial premises. The following contributions are applicable for the boarding house:

- Shire wide contributions
- Open Space Works
- Community Facilities Land & Works

The contributions have been calculated and loaded into Pathway based on 62 boarding house rooms (includes the manager's room). As outlined in the Wyong District Section 94 Plan, contribution rates are based on the DU factor generated by a particular development:

“A Dwelling Unit (DU) is the basic unit used for planning purposes for this Plan and is defined as a dwelling with an occupancy rate of 3.2 persons. Where other than three bedroom dwellings are proposed, an equivalent number of dwelling units will be calculated based on needs and contributions in accordance with Council's Policy.”

The contributions for this boarding house have been based on 0.26 DU per room. Due to the size of boarding house units Council has consistently applied contributions based on the DU rate of 0.26 which is the same as a motel rather than 0.52 DU as applied to a typical 1 bedroom unit.

Water and Sewer Contributions

The site is located within the Wyong Development Servicing Plan. Water and sewer contributions are required under the *Water Management Act 2000* for this proposal, which have been calculated for 62 x 1 bedroom units, with credit applied for the existing serviced commercial development. The proposal does not include common bathroom facilities, rather has toilet / shower facilities in each room. The water and sewer contributions will be detailed in the S306 letter which will provide water and sewer development requirements.

CONCLUSION

The application seeks approval for the construction of a mixed use development including demolition of existing buildings. The mixed use development consists of ground floor commercial premises and 62 room boarding house. The proposal includes a request to vary the building height using Clause 4.6 of the WLEP. The variation is considered reasonable in this instance. The proposal has been assessed using the heads of consideration in Section 79C of the *Environmental Planning and Assessment Act 1979*. It is generally considered the proposed development is suitable for approval subject to conditions.

The proposal is recommended for approval.

ATTACHMENTS

Attachment 1 – SEPP No.71 Matters for Consideration Table

Attachment 1: SEPP 71 Matters for Consideration

CI.8	Matters for Consideration	Proposed
a	The aims of the Policy	The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment; and the maintenance of pedestrian access to foreshore areas.
b	Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.	The proposal does not affect public access to foreshore areas.
c	Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	Not applicable.
d	The suitability of development given its type, location and design and its relationship with the surrounding area.	The site is suitable for the proposed boarding house and permissible in the mixed use zone.
e	Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The proposal has no adverse impact on the foreshore in terms of view loss or overshadowing.
f	The scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The proposal will have no adverse impact on the scenic qualities of the coastline.
g	Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.	The subject site does not contain any threatened species or habitat.
h	Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.	The proposal has no impact on the conservation of fish and marine vegetation.
i	Existing wildlife corridors and the impact of development on these corridors.	The proposal will not affect any identified wildlife corridor.
j	The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	Not applicable.

Cl.8	Matters for Consideration	Proposed
k	Measures to reduce the potential for conflict between land-based and water-based coastal activities.	The proposal has no impact on water-based coastal activities.
l	Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality.
m	Likely impacts of development on the water quality of coastal water bodies.	The proposal will not adversely affect the downstream water quality.
n	The conservation and preservation of items of heritage, archaeological or historic significance.	The proposal has no impact on items of heritage, archaeological or historic value.
o	Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities.	Not applicable.
p(i)	The cumulative impacts of the proposed development on the environment.	The proposal is not considered to have any adverse cumulative impacts on the environment.
p(ii)	Measures to ensure that water and energy usage by the proposed development is efficient.	Water and energy usage is efficient.
