

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2019SNH001
<b>Application Number</b>	DA2018/2019
<b>LGA</b>	Northern Beaches
<b>Proposed Development</b>	Demolition works and construction of a boarding house with basement parking
<b>Land to be developed (Address)</b>	Lot 1 DP 548605, 16 Gladys Avenue FRENCHS FOREST NSW 2086
<b>Owner</b>	Daniel Joseph Sheahan Debra Ann Sheahan
<b>Applicant</b>	Michael William Williamson
<b>Date of Application lodgement</b>	19/12/2018
<b>Number of Submissions</b>	117
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Clause 5 (b) of Schedule 7 is for <i>private infrastructure and community facilities over \$5 million</i> and includes <i>affordable housing</i>
<b>List of all relevant s4.15(1) (a) matters</b>	
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans Statement of Environmental Effects Acoustic Report Geotechnical Report Traffic and Parking Report
<b>Report prepared by</b>	Louise Kerr Director, Planning and Place
<b>Responsible Officer</b>	Daniel Milliken, Principal Planner
<b>Report date</b>	

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **YES**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **N/A**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may **NO**

require specific Special Infrastructure Contributions (SIC) conditions

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### Conditions

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

**NO**

## EXECUTIVE SUMMARY

This proposal seeks consent for an 82 room, three storey boarding house with a basement carpark in a well established low density residential area. The site is surrounded by detached residential dwellings in landscaped settings.

An application for a larger 103 room boarding house development on this site was lodged on 22 December 2017. This application was withdrawn after numerous critical issues with the development were outlined to the applicant.

The current development application was lodged prior to a change to the SEPP ARH that limited boarding houses in R2 Low Density Residential zones to 12 rooms. The change to the SEPP ARH included savings provisions, resulting in the 12 room limit not applying to this application.

The notification of the application resulted in 117 submissions being received, all of which objected to the proposal based on a large number of specific issues. Many of the concerns raised within the submissions are agreed with and have been incorporated into the reasons for refusal.

One critical issue raised by many of the submissions is the provision of off-street car spaces. Parking is already a critical issue in Gladys Avenue, which is notable for having little available on-street parking. The proposed development has a significant off-street parking non-compliance (with the SEPP ARH provisions) and would create unacceptable impacts to the residents of Gladys Avenue and the surrounding streets.

The development does not meet the requirements and/or objectives of a number of clauses within the SEPP ARH, the WLEP 2011 and the WDCP. These include, character, parking, landscaping, wall heights, front boundary setbacks, waste management, stormwater, privacy and building bulk.

The size and scale of the proposed boarding house is much greater than the surrounding and nearby detached residential dwellings. Each of the building elements are larger in scale than any nearby dwellings and there are insufficient landscaped areas around the development to reduce their impacts. There is also an inadequate landscaped setting within the front yard. In this regard, the development is incompatible with the character of the local area and will present a building bulk that will create an unacceptable visual impact.

The development would also result in unreasonable amenity impacts, including privacy and noise, to surrounding properties.

While the architecture of the design is a positive element in terms of its colours, materials and style, the desire to fit three levels of boarding rooms (each level with as many rooms as possible) across the site has come at the expense of an outcome that will improve the urban environment and result in reasonable amenity for all future occupants and neighbours.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies. The outcome of this assessment is detailed within this report.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal is an unsuitable and inappropriate development for the subject site.

Accordingly, it is recommended that the application be refused.

## ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential  
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land  
 Warringah Development Control Plan - A.5 Objectives  
 Warringah Development Control Plan - B1 Wall Heights  
 Warringah Development Control Plan - B5 Side Boundary Setbacks  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - C2 Traffic, Access and Safety  
 Warringah Development Control Plan - C3 Parking Facilities  
 Warringah Development Control Plan - C4 Stormwater  
 Warringah Development Control Plan - C9 Waste Management  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - D3 Noise  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy  
 Warringah Development Control Plan - D9 Building Bulk

## SITE DESCRIPTION

<b>Property Description:</b> DA2018/2019	Lot 1 DP 548605 , 16 Gladys Avenue FRENCHS FOREST Page 3 of 63
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	NSW 2086
<b>Detailed Site Description:</b>	<p>The subject site consists of a single allotment located on the northern side of Gladys Avenue, Frenchs Forest.</p> <p>The site is irregular in shape with a narrow frontage of 11.95m along Gladys Avenue and an average depth of 59.74m. The site has a surveyed area of 2,411m<sup>2</sup> and falls approximately 9.0 metres from the street frontage to the rear (northern) boundary.</p> <p>The site is located within the R2 Low Density Residential Zone under Warringah Local Environmental Plan 2011. Surrounding development is predominantly characterised by a mix of single and two storey dwelling houses in landscaped settings.</p> <p>The site currently contains a single storey dwelling house, a swimming pool, a detached garage and a high front fence. The site also contains numerous trees, including several significant canopy trees.</p> <p>The site is located within the Frenchs Forest Planned Precinct, although the site is not currently part of the rezoned land in the master plan. The Northern Beaches Hospital is located approximately 150 metres to the south of the subject site.</p>

Map:



## SITE HISTORY

**DA2017/1344** (SNPP reference - 2018SNH003)

This application was for a 103 room boarding house development on this site and was lodged on 22 DA2018/2019

December 2017. This application was withdrawn.

### **Land and Environment Court Appeal**

The applicant has lodged a deemed refusal appeal for the current application.

The matter has been set down for a s.34 conciliation conference on 10 October 2019.

### **PROPOSED DEVELOPMENT IN DETAIL**

The applicant seeks consent for demolition works and the construction of a boarding house with basement car parking. The boarding house is contained within two main building elements connected by the basement carpark.

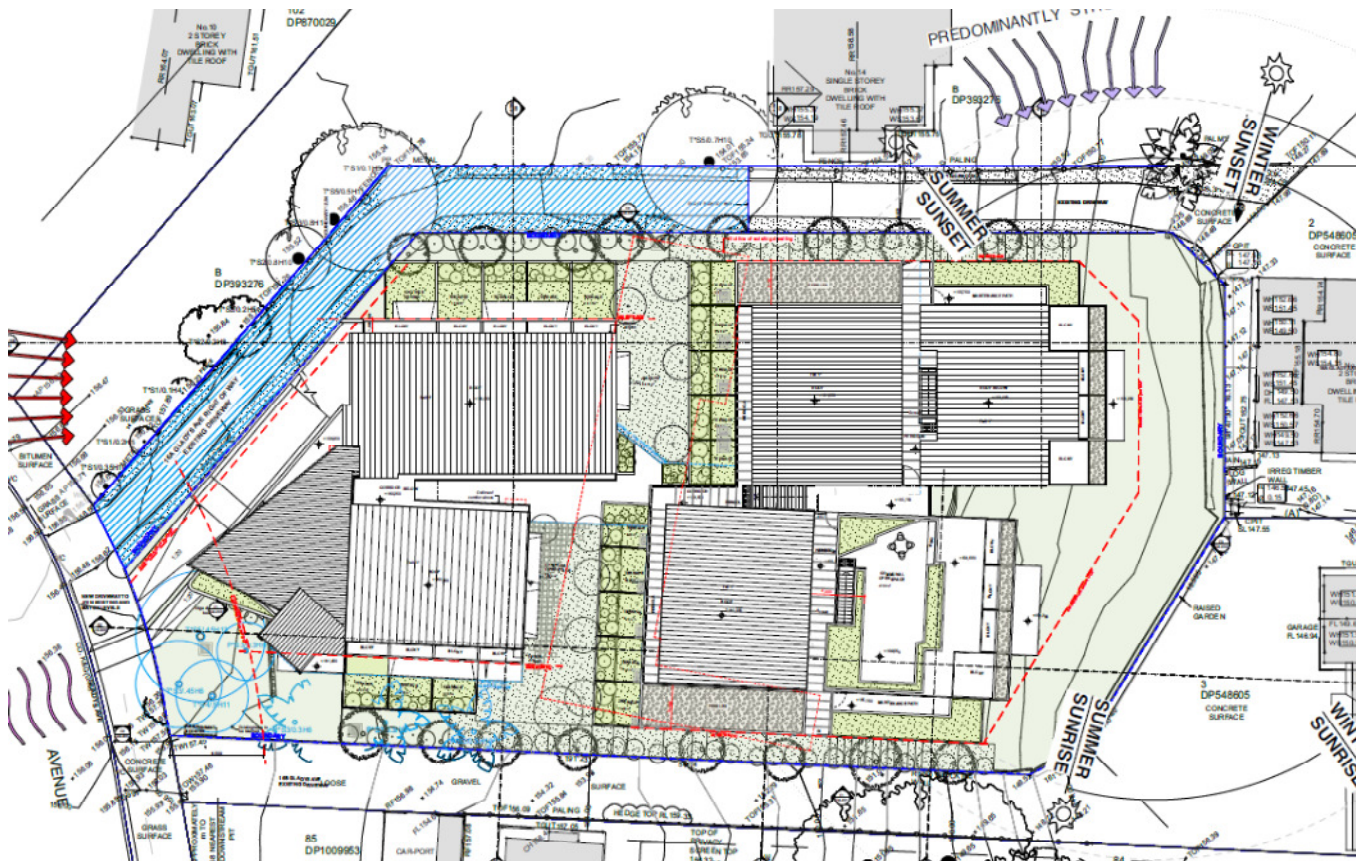
The development is commonly referred to as a 'new generation boarding house' which essentially means that each room is self contained.

The application was lodged under the provisions of SEPP ARH. The WLEP 2011 also permits Boarding Houses with consent in the R2 Low Density Residential zone.

The development includes the following works:

- Demolition of all existing structures on site,
- Site preparation works, including excavation for the basement carpark,
- The construction of a three storey, 82 room boarding house (rooms of between 16.47sqm and 23.2sqm in area) including 1 managers unit with a basement car park,
- The construction of a new driveway, pedestrian pathways and paving,
- Site landscaping.





In detail, the boarding house comprises:

Basement Level (RL 150.15 and 151.75)

- 10 boarding rooms
- 21 car parking spaces, including a managers space and a disabled car parking space
- 17 bicycle spaces
- 17 motorcycle spaces
- An accessible toilet
- Service and plant rooms
- Lift

Ground Floor Level (RL 152.95 and 154.65)

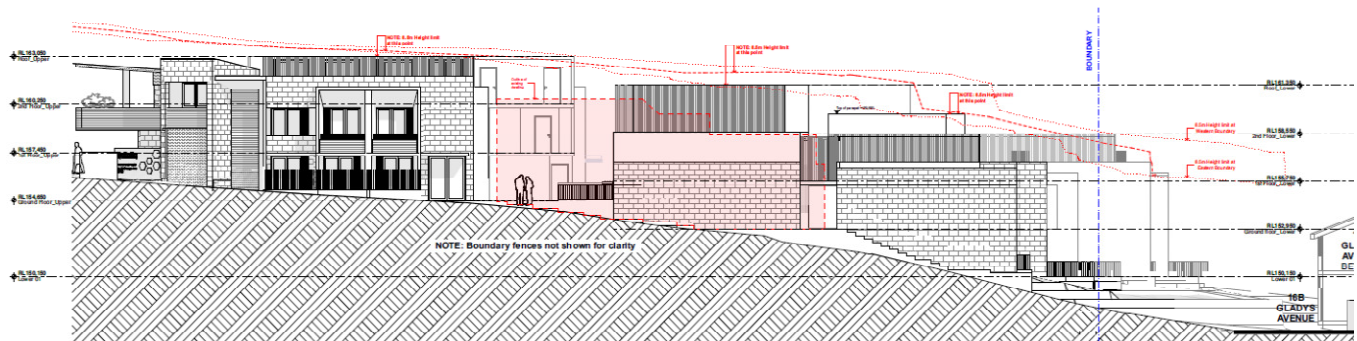
- 27 boarding rooms including 1 accessible unit
- A communal living area with kitchen facilities
- A communal laundry
- Waste rooms
- Lift and lobby

First Floor Level (RL 155.75 and 157.45)

- 27 boarding rooms including 4 accessible units
- 1 Managers unit
- An office
- Lift and lobby

## Second Floor Level (RL 158.55 and 160.25)

- 17 boarding rooms
- Outdoor communal open space
- Lobby



## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent</p>

Section 4.15 Matters for Consideration'	Comments
	<p>authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The use of the site as a boarding house will not in itself result in a detrimental social impact given boarding houses are permissible in the zone, residents of the boarding house would reside in the facility in accordance with a Plan of Management and their lease agreements and it is anticipated that a range of persons from the general community will occupy the facility. Overall, the proposal would not have a detrimental social impact.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed affordable residential housing land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>A boarding house is a permissible use on the land and an appropriate development could be built on this site.</p> <p>The proposed development, however, is not appropriate due to its scale and it impacts on surrounding properties and surrounding streets. The impacts include parking, visual and acoustic privacy, building bulk, character, built form, internal amenity, waste management, stormwater and landslip.</p> <p>For the reasons outlined in this report, the site is considered to be unsuitable for the proposed development.</p> <p>This has been included as a reason for refusal of the application.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or	See discussion on “Notification & Submissions Received” in this report.



Section 4.15 Matters for Consideration'	Comments
EPA Regs	
Section 4.15 (1) (e) – the public interest	<p>The public exhibition period resulted in submissions from 117 different members of the public, including surrounding and nearby residents, all objecting to the proposal.</p> <p>This significant public interest and opposition to the proposal is detailed in the issues raised in the submissions. All these issues have been addressed.</p> <p>The proposed boarding house is of a larger scale than the single detached dwelling that currently exists on the site and different to the existing surrounding development in Gladys Avenue. The introduction of a higher density form of development in the area and the stigma around Boarding Houses in traditional low scale residential areas has contributed to the number of submissions against the proposal.</p> <p>It is acknowledged that boarding houses are a permissible land use on the site under the WLEP 2011 and that they provide for additional housing supply and choice in the area. However, the design of the boarding house is unsatisfactory and would result in unacceptable amenity impacts on surrounding properties, Gladys Avenue and surrounding streets.</p> <p>The assessment undertaken and outlined in this report has found the proposal is not consistent with all relevant standards and requirements of the SEPP ARH, including not being compatible with the character of the local area.</p> <p>The proposal is not consistent with the Aims of the Warringah Local Environmental Plan 2011.</p> <p>The proposal is not consistent with the overall objectives and all relevant clauses of the Warringah Development Control Plan.</p> <p>The assessment of this application has found that the site is not suitable for the proposed development.</p> <p>In this regard, it is not in the public interest to approve this development given the inappropriate planning outcome and the undesirable precedent it would set.</p> <p>The public interest has been included in the recommendation as a reason for refusal of the application.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 117 submission/s from:

Name:	Address:
Ms Gopala Maurer	18 Gladys Avenue FRENCHS FOREST NSW 2086
Mark L Johnston Pty Ltd	2 Neridah Avenue BELROSE NSW 2085
Mr Aaron Lacey	22 Gladys Avenue FRENCHS FOREST NSW 2086
Mrs Hayley Carruthers	2 / 15 - 19 Shackel Avenue BROOKVALE NSW 2100
Miss Michele Simone Rook Duncan	12 Rodborough Road FRENCHS FOREST NSW 2086
Mr Kenneth Harold Attwooll	41 Tiarri Avenue TERREY HILLS NSW 2084
Alan Jurd	
Ross McDonald	10 Milburn Place ST IVES NSW 2075
Peter Arnold Clark	16 Bluegum Crescent FRENCHS FOREST NSW 2086
Mr Craig Charles Attwater	51 Bluegum Crescent FRENCHS FOREST NSW 2086
Mr Ian Douglas Rickard	23 Andove Street BELROSE NSW 2085
Mrs Joyce Johnston	67 / 2 Dawes Road BELROSE NSW 2085
Mr Cody Benjamin Carruthers	2 Neridah Avenue BELROSE NSW 2085
Colin Graham Mitchell	16 A Gladys Avenue FRENCHS FOREST NSW 2086
Anthony John Dreise Sharon Lynne Dreise	4 Gladys Avenue FRENCHS FOREST NSW 2086
Ms Bianca Holley	9 Curragundi Avenue BELROSE NSW 2085
Beverley Anne Moore	3 Cavan Road KILLARNEY HEIGHTS NSW 2087
Vicki Johnston	2 Neridah Avenue BELROSE NSW 2085
Mrs Lynne Wiblin	13 Moonbi Crescent FRENCHS FOREST NSW 2086
Cheryl Moore	3 A Paling Place BEACON HILL NSW 2100
Corryne Louise Keller	31 b Carnarvon Drive FRENCHS FOREST NSW 2086
Mrs Carolyn Jane Deegen	61 Tristram Road BEACON HILL NSW 2100
Clayton Matthew White	49 Sorlie Road FRENCHS FOREST NSW 2086
Ms Jill Elaine Cordery	138 Blackbutts Road FRENCHS FOREST NSW 2086
Dennis Graham Brutnell	111 McIntosh Road NARRAWEENA NSW 2099
Karen Mary Power	34 Aranda Drive DAVIDSON NSW 2085
Mrs Jill Lorraine Brutnell	111 McIntosh Road NARRAWEENA NSW 2099
Deirdre Hatton	29 Aranda Drive DAVIDSON NSW 2085
Mr Jian Zhang	12 Gladys Avenue FRENCHS FOREST NSW 2086
Mr Geoffrey Charles Young	29 Aranda Drive DAVIDSON NSW 2085

Name:	Address:
Mrs Sandra Elizabeth Young	29 Aranda Drive DAVIDSON NSW 2085
Mrs Michele Joy Winston	39 Grace Avenue FRENCHS FOREST NSW 2086
Ms Sonja Majella Barnwell	32 Willow Tree Crescent BELROSE NSW 2085
P Baxter	
Mrs Lisa Margaret Wattle	20 Dareen Street BEACON HILL NSW 2100
Mrs Linda Jane Cahill	4 Ashdown Place FRENCHS FOREST NSW 2086
Miss Nicholle Amie Johnston	2 Neridah Avenue BELROSE NSW 2085
Mrs Merrilee Brown	1 - 3 Linden Avenue BELROSE NSW 2085
Mr Keith David Bennett	12 Craig Place DAVIDSON NSW 2085
Ignazia Spedalieri	35 Rabbett Street FRENCHS FOREST NSW 2086
Mr Andrew Duncan McGough	75 Wearden Road FRENCHS FOREST NSW 2086
Mr Raymond Allan Cosh	10 Valley Road FORESTVILLE NSW 2087
Mr Peter John Dawes	10 Sylvia Place FRENCHS FOREST NSW 2086
Mr Robert James Collyer	8 Cotswold Close BELROSE NSW 2085
Deborah Ann Linton-Frost	24 A Ralston Avenue BELROSE NSW 2085
Mr Goran Djurasinovic	4 / 2 - 10 Hawkesbury Avenue DEE WHY NSW 2099
Mrs Jiang Wei Wu	1 / 50 Roseberry Street MANLY VALE NSW 2093
Mr Stephen Alan Small	4 Harst Place BELROSE NSW 2085
Mr Socratis Metaxas Mariatos	1 Sylvia Place FRENCHS FOREST NSW 2086
Mrs Nicole Belinda Parsons	5 Mills Place BEACON HILL NSW 2100
Mrs Peta-Maree Ross	24 Jennifer Avenue ALLAMBIE HEIGHTS NSW 2100
Mr Bert Sheridan	6 Arden Place FRENCHS FOREST NSW 2086
Mr Bruce Neville Allan Brown	20 Knightsbridge Avenue BELROSE NSW 2085
Mrs Sally Jane Clegg	3 Undula Place BELROSE NSW 2085
Mrs Karen Louise Brocklebank	15 Toronto Avenue CROMER NSW 2099
Miss Bei Zhu	14 Gladys Avenue FRENCHS FOREST NSW 2086
Lorraine Judith Lilley	14 Neridah Avenue BELROSE NSW 2085
Christine Carter	1494 Oxford Falls Road OXFORD FALLS NSW 2100
Helen Leigh Hunter	135 Forest Way BELROSE NSW 2085
Mr Glenn Donald Ross	24 Jennifer Avenue ALLAMBIE HEIGHTS NSW 2100
Mrs Maree Ann Weicks	39 Carawa Road CROMER NSW 2099
Kerry Wilson	
Mr Gregory Don Elder	20 A Charleroi Road BELROSE NSW 2085
Mr Terence Frederick Winslade	9 Opala Street BELROSE NSW 2085
Mr David Bruce Weaver	43 Bluegum Crescent FRENCHS FOREST NSW 2086
Maria Belousova	13 Edgewood Place BELROSE NSW 2085
Robyn Elizabeth Wood	11 Morgan Road BELROSE NSW 2085
Eric Edward Blewitt	10 B Gladys Avenue FRENCHS FOREST NSW 2086
James Mccully	2/132 Railway Street MERRYLANDS NSW 2160

Name:	Address:
Ms Juliette Catherine Rubensohn	5 Cobb Street FRENCHS FOREST NSW 2086
Sergio Fuentealba	31 Hendricks Avenue NEWINGTON NSW 2127
Mr Marcelo Maia Perlingeiro	3 Charleroi Road BELROSE NSW 2085
Michael Gibson	24 Fiona Street BELROSE NSW 2085
Wesley Zhang	12 Gladys Avenue FRENCHS FOREST NSW 2086
Peter Johnston	
Miss Michelle De Abel	55a Baileys Lane KURRAJONG HILLS NSW 2758
Mrs Jennifer Young	6 Koorangi Avenue ELANORA HEIGHTS NSW 2101
Bo Chen	
Yi Fu	
Ms Kim Katherine Elder	27 C Kadigal Place BEACON HILL NSW 2100
Mrs Joanne Bernadette Berte-Davis	53 Parni Place FRENCHS FOREST NSW 2086
Ms Tamra Louise Hardy	7 / 25 Redman Road DEE WHY NSW 2099
Kylie Zoe Hardy	2 / 15 - 19 Shackel Avenue BROOKVALE NSW 2100
Stacey Goldsworthy	
Louise Bronwen Howells	66 Epping Drive FRENCHS FOREST NSW 2086
Mrs Jodie Blake	10 Lae Place ALLAMBIE HEIGHTS NSW 2100
Mr Grant Geoffrey Gordon	10 Woodside Grove FORESTVILLE NSW 2087
Jennifer Radford	7 Allworth Drive DAVIDSON NSW 2085
Ms Alissia Maree Denly	8 Southern Cross Way ALLAMBIE HEIGHTS NSW 2100
Nicola Clay	
Warren Craig Maurer	18 Gladys Avenue FRENCHS FOREST NSW 2086
Caitlyn Brukarz-Smith	164 Spit Road MOSMAN NSW 2088
Mrs Samantha Joy Gojak	9 b Gladys Avenue FRENCHS FOREST NSW 2086
Bruce Ronald Hellmers	17 Stratford Drive BELROSE NSW 2085
Mr John William O'Sullivan	27 Bluegum Crescent FRENCHS FOREST NSW 2086
Ms Lucy Jane Jackson	31 Nimbey Avenue NARRAWEENA NSW 2099
Mr Steven Condon	75 Cromer Road CROMER NSW 2099
Peter James Redshaw	40 Inglebar Avenue ALLAMBIE HEIGHTS NSW 2100
Melissa Condon	75 Cromer Road CROMER NSW 2099
Mr John Mathew Farrant	47 Arthur Street FORESTVILLE NSW 2087
Christian Leonard Clark	C/- Belle Property Frenchs Forest PO Box 271 FRENCHS FOREST NSW 1640
Mrs Sarah Lesley Marler	15 Ashworth Avenue BELROSE NSW 2085
Mr Paul Robert Warrington	23 Wareham Crescent FRENCHS FOREST NSW 2086
Mrs Claire Simpson	73 Tristram Road BEACON HILL NSW 2100
Mr George Dionyssopoulos	6 Grace Avenue FRENCHS FOREST NSW 2086
Ms Rozelle Malan	4 Annette Place BELROSE NSW 2085
Mr Ronald John Patton	19 Wyatt Avenue BELROSE NSW 2085



Name:	Address:
Mrs Cynthia Joy Patton	
Mrs Nicole Frances Tuynman	15 Gladys Avenue FRENCHS FOREST NSW 2086
Ms Alicia Gabrielle Beachley	3 Gladys Avenue FRENCHS FOREST NSW 2086
Mr John Edward Dawson	8 Stratford Drive BELROSE NSW 2085
Mrs Bethaney Louise Pennington	18 A Gladys Avenue FRENCHS FOREST NSW 2086
Mr Andrija Matulin	16 B Gladys Avenue FRENCHS FOREST NSW 2086
Mrs Caroline Mary Wilson	54 Epping Drive FRENCHS FOREST NSW 2086
Rachel Clark	80 Elanora Road ELANORA HEIGHTS NSW 2101
Mrs Dale Caroline Roberts	32 Epping Drive FRENCHS FOREST NSW 2086
Rebecca Anne Tissington	16 A Gladys Avenue FRENCHS FOREST NSW 2086
Michael Vilnis Gitte Vils Hansen	60 Epping Drive FRENCHS FOREST NSW 2086

The following issues were raised in the submissions and each have been addressed below:

- **Non-compliance with SEPP ARH 12 room limit**
- **Character, density and 'overdevelopment'**
- **Boarding houses and their residents**
- **Parking, traffic, traffic noise and pedestrian safety**
- **Amenity - Privacy, noise and overshadowing**
- **Built form - Building height, side setbacks, number of storeys, bulk and scale**
- **Room layouts**
- **Landslip and Geotechnical Report**
- **Quality of the plans and documentation**
- **Accessibility and disability discrimination**
- **Fire safety**
- **Waste management**
- **Property Values**
- **Hospital precinct plan**
- **Stormwater**
- **Timing of the lodgement of the application**
- **View sharing**

The matters raised within the submissions are addressed as follows:

- **Non-compliance with SEPP ARH 12 room limit**

The submissions raised concerns that the development does not comply with the 12 room limit for boarding houses within the R2 Low Density Residential zone, under Clause 30AA of the SEPP ARH.

Comment:

The development application was lodged on 22 December 2018. The amendment to the policy was published on 28 February 2019. CI 54C of the SEPP ARH contains the following savings and transitional provisions:

DA2018/2019

*‘(1) This clause applies to a development application that was made before the commencement of the amending SEPP and was not determined by a consent authority or, if appealed, not finally determined by a court before that commencement.*

*(2) The application must be determined by applying all provisions of this Policy as if the amending SEPP had not commenced.*

*(3) In this clause, the amending SEPP means State Environmental Planning Policy (Affordable Rental Housing) Amendment (Boarding House Development) 2019’.*

The savings and transitional provisions within cl 54C (1) apply to this application. Therefore, the application must be assessed as if clause 30AA had not commenced.

Notwithstanding, this proposal is being recommended for refusal for a number of reasons, including its bulk and scale, and its traffic and parking impacts. These impacts are partly a result of the number of rooms proposed.

- **Character, density and 'overdevelopment'**

The submissions raised concerns that the proposal is not compatible with the character of the local area. The submissions also raised concerns that the density of the development is not suited to the R2 Low Density Residential zone and that the boarding house is an 'overdevelopment' of the site.

Comment:

Character has been discussed in detail under the SEPP ARH section, below in this report.

In summary, it is agreed that, in the context of the Land and Environment Court Planning Principles, the proposal is not compatible with the character of the local area and this has been included as a reason for refusal.

The issues of the density of the development and its bulk and scale are related to its character and form part of several reasons for refusal, including character and building bulk.

- **Boarding houses and their residents**

The submissions raised concerns that the boarding house will be occupied by residents who are transient. Concerns are also raised that a boarding house does not fit with the social character of the area, that the boarding house residents will make other residents feel unsafe, that the boarding house may be used in ways it is not intended to, such as short term stays, and, the potential activities of the residents (eg: smoking and noise) will be disruptive to the surrounding residents.

Comment:

A variety of persons are likely to reside in the boarding house, should it be approved, and will most likely represent a cross section of the community.

This is a common concern raised by local residents whenever a boarding house is proposed and is often the result of the stigma that comes with the words 'boarding house' and the more transient nature of the occupants. However, no evidence has been supplied and none has been found in the course of the assessment to indicate that boarding house residents will give rise to

any unacceptable social impacts in the area or make existing residents feel unsafe. In addition, the boarding house, if approved, would be run in accordance with a Plan of Management. This would ensure resident's conduct (such as smoking, noise, visitors, etc) is appropriate for maintaining the amenity and safety of the local area.

In the event residents behaviour disturbs the local amenity or raises any safety concerns, the Boarding House Manager will be responsible for policing the occupants in line with the Plan of Management and their lease agreements. Should this not happen, it would then be appropriate for the Police to be notified, the same as with any similar problems for any other type of development (eg: units, single dwellings, etc).

Boarding houses are designed for minimum three months stays and are not used as backpacker or bed and breakfast accommodation. Minimum three month stays would be enforced as a condition of consent should this application be approved and therefore, the boarding house is not considered to be short term occupancy.

As these issues are manageable by conditions, they do not warrant refusal of the application.

- **Parking, traffic, traffic noise and pedestrian safety**

The submissions raised concerns that the development does not provide sufficient on-site car parking and that the increased occupancy of the site will result in traffic congestion and a loss of on-street parking. The submissions also raised concerns that the proposal would increase the safety risk to pedestrians, partly due to the number of cars entering and exiting the site and the layout of the driveway. Finally, the submissions raised concerns that the increased noise caused by cars entering and exiting the site would be disruptive.

Comment:

The provision of off-street parking is discussed in detail under Part C3 Parking Facilities, below in this report. In summary, the proposal does not provide sufficient off-street parking and, if approved, would result in unacceptable impacts on Gladys Avenue and surrounding streets.

The driveway design and the layout of the front of the site would result in increased risks to pedestrians. This is made worse by the lack of a footpath along Gladys Avenue providing safe access to the nearest bus stops.

These matters have been included as reasons for refusal.

The increased noise from cars entering and exiting the site is not expected to be unreasonable as only the upper portion of the driveway is above ground. This portion is adjacent to the access way for No. 16 A Gladys Avenue and away from habitable rooms. This particular matter has not been included as a reason for refusal.

- **Amenity - Privacy, noise and overshadowing**

The submissions raised concerns that the proposal will result in unreasonable privacy, noise and overshadowing impacts.

Comment:

**(i) Privacy**

Privacy is discussed in detail under Part D8 Privacy, below in this report. In summary, the proposal would result in unreasonable privacy impacts to surrounding properties. This has been included as a reason for refusal.

## **(ii) Noise**

The boarding rooms will be occupied by one or two people. Some of the rooms include small terraces or decks, however, these are not large enough to comfortably hold more than 2 people.

The common room and common outdoor area are located near the centre of the development and close to the eastern boundary. There is a dwelling to the east that is approximately 10m from this common area.

The acoustic report does not address the impacts from the common room or common outdoor area. In this regard, Council cannot be satisfied that the proposal will not result in unreasonable acoustic impacts to nearby properties.

This has been included as a reason for refusal.

## **(iii) Overshadowing**

The orientation of the site and the setbacks of the proposal will mean that all neighbouring properties will retain more than three hours of sunlight between 9am and 3pm in mid winter.

- **Built form - Building height, side setbacks, number of storeys, bulk and scale**

The submissions raised concerns that the development does not comply with a number of built form controls and that it results in a bulk and scale that is unacceptable.

### Comment:

The proposal is not compliant with the wall height, side setback (for the basement), front setback and landscaped open space controls.

These matters are discussed in detail under the Warringah DCP section of this report. In summary, the non-compliances with the wall height, front setback and landscaped open space controls have contributed to the design being of an excessive bulk and scale, and have been included as reasons for refusal of the application.

- **Room layouts**

The submissions raised concerns that the boarding room layouts are unhygienic, in particular, having bathroom doors adjacent to, or opening out into, kitchens.

### Comment:

Council's Environmental Health Officers and Council's Building Assessment Officers did not raise this matter as a concern from an environmental health or BCA perspective.

Notwithstanding, the room layouts are not ideal and have been raised as an issue to be improved as part of the statement of facts and contentions prepared for the court appeal.



- **Landslip and Geotechnical Report**

The submissions raised concerns that the Geotechnical Report is not current.

Comment:

The Preliminary Geotechnical Assessment submitted with the application is dated 14 December 2017. This pre-dates the lodgement of DA2017/1344 (the previous boarding house design for the site). The report has not been updated to reflect the new design and as such, the consent authority cannot be satisfied that the development being applied for under the current application has been assessed for the risk associated with landslides in relation to both property and life. Council can also not be satisfied that the impacts on adjoining properties are negligible.

This has been included as a reason for refusal.

- **Quality of the plans and documentation**

The submissions raised concerns that the quality of the plans and documentation was not sufficient and that certain reports (eg: the Geotechnical Report) are not current or are not detailed enough.

Comment:

The quality of the plans submitted are sufficient to enable an assessment of the application.

As outlined above, some reports are either not current (the Geotechnical Report) or do not contain sufficient detail (the Acoustic Report). These matters have been included as reasons for refusal.

- **Accessibility and disability discrimination**

The submissions raised concerns that the development does not provide sufficient access for people of all abilities.

Comment:

It is important to note that the information required to be submitted at development application stage is different to the information required at Construction Certificate stage.

The application was referred to Council's Building Certification team who raised no objections subject to conditions.

Appropriate conditions can be included in the consent, should this application be approved, requiring compliance with the BCA, all relevant Australian Standards and other legislation such as the Disability Discrimination Act 1992.

This matter does not warrant the refusal of the application.

- **Fire safety**

The submissions raised concerns that the residents of the development would be at risk from a fire within the boarding house.

Comment:

As above, the information required to be submitted at development application stage is different to the information required at construction certificate stage.

The application was referred to Council's Building Certification team who raised no objections subject to conditions.

Appropriate conditions could be included in the consent, should this application be approved, requiring compliance with the BCA and all relevant Australian Standards, including those relating to fire safety.

This matter does not warrant the refusal of the application.

- **Waste management**

The submissions raised concerns that the on-going waste management of the boarding house would not be practical and would result in significant disruption to the street.

Comment:

The proposed waste room and waste management was reviewed by Council's Waste Officers who commented that while the waste room and bulk waste room both meet the requirements of the guidelines, as the development is greater than 80 dwellings, the site must allow for on-site waste collections as detailed in chapter 4, section 4.7 of the guidelines. On-site collection is not proposed and as such, Council's Waste Officers could not support the development.

This has been included as a reason for refusal.

- **Property Values**

The submissions raised concerns that the proposal would impact on property values in the area.

Comment:

Property value is not a relevant consideration under the provisions of Section 4.15 of the EP&A Act 1979.

This matter does not warrant the refusal of the application.

- **Hospital precinct plan**

The submissions raised concerns that the development of the site should wait until the controls to realise the Northern Beaches Hospital Precinct Plan have been adopted.

Comment:

While some within the community are calling for all development in this area to be on hold until the controls for the precinct are in place, Council cannot prevent the lodgement of a DA for a currently permissible use on the site nor put a freeze on such development generally.

This matter does not warrant the refusal of the application.

- **Stormwater**

The submissions raised concerns that the stormwater design of the development was insufficient to prevent impacts on neighbouring properties.

Comment:

The proposed stormwater design was reviewed by Council's Development Engineers who could not support the development. Their comments and reasons are listed above, in the referral body comments section of this report.

This has been included as a reason for refusal.

- **Timing of the lodgement of the application**

The submissions raised concerns that the application was lodged just before Christmas in an attempt by the applicant to reduce community scrutiny.

Comment:

The application was given an extended notification period (9 January 2019 to 2 February 2019) and all submissions received up until the time of writing this report have been considered.

The community has had sufficient opportunity to scrutinise this development.

- **Views sharing**

The submissions raised concerns that the proposal would result in an unreasonable loss of views from No. 18 Gladys Avenue.

Comment:

This matter has been discussed in detail under Part D7 Views, below in this report.

In summary, the views to be affected from No. 18 Gladys Avenue are over the side boundary of the subject site and in a North Westerly direction (towards the rear boundary).

The critical controls relating to view loss in this particular case are height, rear setback and side boundary envelope. The proposal is fully compliant with these three controls and is therefore considered to be a reasonable development in this regard.

The question as to whether there is a better design option is difficult to answer in this case. This is because this assessment has found that the bulk, scale and massing of the proposal is excessive and the development is being recommended for refusal. In order to resolve these issues, a smaller development is required. This will inevitably result in increased view sharing.

The site is large enough that a different design, that includes the current number of rooms and increases view sharing from No. 18 Gladys Avenue, is possible. However, this may move other impacts onto other properties.

Overall, the development is fully compliant with the controls relating to view loss and a smaller proposal (that resolves the other issues outlined in this report) could still block the same amount of views from No. 18 Gladys Avenue.

As such, view loss is not considered necessary to be included as a reason for refusal.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application proposes the demolition of existing structures and construction of a new four (4) level boarding house development comprising approx eighty-two (82) rooms with associated parking spaces located on the Lower Ground Floor Level.</p> <p>No objections subject to conditions.</p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>Environmental Health have reviewed the application with regard to our assessment review criteria and have no issues apart from the potentially significant issue of noise impact to adjoining residences</p> <p>The acoustic review of the site has not taken current back ground sound level readings in this quiet residential street but has looked at noise principles, building materials and general design criteria, and a management plan to minimise noise. The Noise Policy for Industry NSW EPA, 2017 can be used for guidance however the premises are not Industrial.</p> <p>The elevated communal area in particular represents a potential noise issue to adjoining premises and although there is a noise management plan requiring these areas not to be used after 10pm, this may not be adequate to deal with communal noise from a fully occupied 82 bedroom boarding house. Similar communal areas in other proposals in the Northern Beaches area have required up to 2m high solid walls to deal with potential noise from common areas. So amendments to visual design may be required after an acoustic engineers on site assessment.</p> <p>There is a major assumption, not backed up with any operational management plan or conditions of use by occupiers, in that there are 82 Rooms without a restriction on occupier usage of motor vehicles. This means that potentially up to 159 occupier motor vehicles could be parked around or on the site (including the 21 spaces located under the building for cars and 17 motor cycle and 17 bicycle). Should 159 vehicles (and visitor vehicles not taken into account) eventuate, this is unknown but is a possibility not to be ignored. The applicant has not and cannot guarantee this will not occur and there are no protections in place for those residential neighbours affected.</p> <p>Particularly if these residents are shift workers, then the closing of car doors and starting of engines at all hours of the day and night, could affect a significant number of residents in adjoining streets and the residential amenity. Ideally all occupants should be required to use the facilities provided, ride bikes or walk to work as generally</p>



Internal Referral Body	Comments
	<p>assumed/proposed and not use motor vehicles. This matter needs to be taken into consideration.</p> <p>In summary: Noise from; vehicles utilising the garage in the basement, plant and equipment, mechanical ventilation, communal areas could be dealt with by conditions should this application be approved.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The Landscape Plans and Arborist report provided with the application are noted.</p> <p>The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions.</p>
NECC (Development Engineering)	<p>1. The OSD tank seems to have sufficient volume. 2. Council's NL profile can be applied.</p> <p>Development Engineers have reviewed the proposal and cannot support the proposal due to the following reasons.</p> <ol style="list-style-type: none"> <li>1. The post-development peak flow rate exceeds 30 L/s, Stormwater from the development site shall be discharged directly into the kerb inlet pit in front of No.62 Epping Drive rather than discharged into the existing pit near the rear site boundary.</li> <li>2. The OSD tank needs to be relocated such that Council can get access to the OSD tank 24/7 in accordance with Section 4.7 in "Warringah On-site Stormwater Detention Technical Specification".</li> <li>3. Footpath along Gladys Avenue starting from in front of the development site to Frenchs Forest Road West shall be constructed in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009 - REG27. The footpath shall be 1.5m wide in accordance with Council's "Warringah Development Engineering Minor Works Specification".</li> <li>4. The crossing width shall be widened to at least 5.0m.</li> </ol>
Strategic and Place Planning	<p><b>Discussion of reason for referral</b></p> <p>The application has been referred as the subject site is identified within the 'future investigation area' of the Hospital Precinct Structure Plan (2017), adopted by Council on 1 August 2017.</p> <p><b>Hospital Precinct Structure Plan and Frenchs Forest Planned</b></p>



Internal Referral Body	Comments
	<p><b>Precinct</b></p> <p>Council has adopted the Hospital Precinct Structure Plan (HPSP) to guide future land use planning decisions in Frenchs Forest over the next 20 years. Whilst this is not a statutory document, Council is working with the NSW Department of Planning and Environment to implement Phase 1 of the HPSP into the statutory planning framework as part of the Frenchs Forest Planned Precinct project.</p> <p>Whilst the subject site is not in the area identified for uplift under the HPSP, it is identified for future investigation after the implementation of Phases 1, 2 and 3. Phases 2 and 3 are dependent on the delivery of significant regional infrastructure such as The Beaches Link Tunnel and/or an east-west bus rapid transit system from Chatswood to Dee Why.</p> <p><b>Consideration of Application</b></p> <p>The Application was supported by a Statement of Environmental Effects (SEE) prepared by DMPS. The SEE does not identify the subject site and its relationship with the HPSP. Notwithstanding this, the subject site is located within the 'future investigation area' of the HPSP, which comprises a timeframe of beyond 20 years of the HPSP. The future investigation area will be subject to further careful analysis and appropriate infrastructure improvements. It is considered that this proposal would pre-empt future planning in this locality. Notwithstanding this, given the time frame, it is recommended that development of the site is consistent with the current planning controls.</p>
Strategic and Place Planning (Urban Design)	<p><b>SUMMARY</b></p> <p>The proposal seeks approval for an 82 unit new generation boarding house development in an R2 low density residential area predominantly characterised by a bushland setting.</p> <p>The following assessment considers the following documents in preparation of the assessment.</p> <p><b>1. EP&amp;A Act new Object 'Good Design'</b></p> <p>In accordance with the new EP&amp;A Act object of good design supported by NSW policies Better Placed and Greener Places, Better Placed Objective 1. Better Fit describes better design as contextual, local and of its place.</p> <p><i>Good design in the built environment is informed by and derived from its location, context and social setting. It is place based and relevant to and resonant with local character, and communal aspirations. It also contributes to evolving character and setting.</i></p> <p><b>Better Placed asks 'Why is this Important'?</b> - New development can also contribute to context and character,</p>



Internal Referral Body	Comments
	<p><i>adding further richness, diversity and quality. They create a dialogue with established places.</i></p> <ul style="list-style-type: none"> <li><i>- Local people accept and adopt new developments, identifying with the built environment and developing a sense of ownership.</i></li> <li><i>- New buildings and spaces become part of a place, its unique character, and are valued by the local people.</i></li> </ul> <p>The proposed development is an overdevelopment of the site in its current built form to space ratio, contextual fit and desired future character aspirations of the Frenchs Forest future precinct.</p> <p>The proposed high density mid-rise typology and intensity of the development is inconsistent with the character, is inconsistent with the local neighbourhood and context and as such is unsupportable in its current form.</p> <p>The re-submitted development application has inadequately addressed issues relating to bulk, scale and intensity of development across the site. Whilst a concessional cross-sectional through site link/green open space has been incorporated into the current design, it still remains that the access path which runs down the length of the site represents a built form that lines either side of the access path having a canyon like effect to the whole of the site.</p> <p>The scale, mass and elevational street wall of Blocks E, F and the Communal Facilities Building will have a significant impact on the character of the local area, including loss of through site vistas across and down the site and the surrounding neighbourhood context. Consideration to the view aspects of neighbouring residences, including those to the north of the site on the other side of the gully should be considered in future design.</p> <p>An analysis of the figure ground built form to space ratio demonstrated in the proposed development drawings is of a greater scale, mass and bulk to that of the low rise low intensity residential development in the area, and is more indicative of a high density urban inner city enclave.</p> <p>Separation between buildings should be more consistent with the type of development consistent within the locality, thus in keeping with the desired future character of the area.</p> <p>The current design of the four pavilions stepping down the site maximises site yield at the expense of resident amenity in the form of tree canopy, through site links and bushland setting.</p> <p>The proposed development will result in a more intense massing outcome from this dense urban apartment block and planning typology.</p> <p>The further deletion of units through the central spine of the development will result in a less intense footprint across the whole site, and will result in a development that retains generous green</p>



Internal Referral Body	Comments
	<p>through site links with a comparably significant reduction in the massing. Refer WLEP Built Form Controls discussed below.</p> <p>Further to this, re-orientation of the units on the north/south axis to the upper southern side of the site would provide for increased solar amenity and cross ventilation to the individual units within each of the blocks. The east west orientation demonstrating little to no fenestration to allow for cross ventilation or solar access is unsupportable. Rotation of these units on the north south axis will optimise opportunities for cross ventilation and solar amenity with the opportunity to provide outdoor living/balconies that open up to the north.</p> <p>The blocks in the middle of the site similarly do not optimise orientation, with their outdoor living/balconies currently oriented to the southern aspect of the site. Flipping of all apartments with balconies to the south including provision of further breaks to the lower blocks on the east/west axis to create pavilion style modules is highly recommended.</p> <p>The site topography presents a great opportunity to maximise orientation and environmental conditions to each of the units for what will inevitably be a high density development. Careful consideration should be made to address the planning concerns raised herein in order to provide a development that acknowledges the new object of the EP&amp;A Act in that it represents good design and addresses the objectives of "Better Placed".</p> <p>With some design changes across the site planning to open up the ground plane to further through site links creating more liveable, suitable and appropriate dwellings for habitation and a place for essential workers, the development has the potential to be supported.</p> <p><b>2. SEPP Affordable Rental Housing (ARH) 2009</b></p> <p><i>Clause 29(2) Wall Height Maximum Storeys and Rear Setbacks</i>  <i>The following controls under the Affordable Rental Housing SEPP have not been complied with;</i></p> <p><i>a. Maximum wall height – 7.2m</i></p> <p>Wall heights exceed 7.2 metres in several locations. Stepping back of the upper level units in these blocks will assist to achieve compliance with the wall height control.</p> <p><i>Clause 30 A – Character of Local Area</i></p> <p>The proposal is within an area of transition. Refer to the Strategic Planning comment provided with regards to future uplift.</p> <p><b>3. Built Form Controls:</b></p> <p><b>WLEP 2011</b></p>



Internal Referral Body	Comments
	<p><i>Aims of the LEP in relation to residential development, are to:</i>  <i>(d) (i) protect and enhance the residential use and amenity of existing residential environments, and</i>  <i>(ii) promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and</i>  <i>(iii) increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah.</i>  <i>(f) (i) achieve development outcomes of quality urban design, and</i>  <i>(iv) ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment, . . .</i></p> <p>The aims of the zone, to ensure residential environments are in harmony with the surrounding single and double storey houses, have not been achieved.</p> <p>A considered response to the site coverage and appropriately distributed open landscaped space is required to achieve a development that is more in sympathy with the surrounding neighbourhood and natural bushland environment.</p> <p>As discussed herein, the breaking down of the built form further to create pavilions that have a clear break in the built form with further green through site links on the north south axis and between the lower site blocks is recommended.</p> <p>Whilst it is noted that the building will cascade down the site with the intention of the circulation stairs and a single shared path that will link the site, it is recommended the circulation and connection paths are distributed so as to provided individual address to each of the modulated blocks.</p> <p>Further building separation with a minimum dimension of 6 metres between blocks to the lower northern part of the site to open up the central spine of the site will provide further opportunity to enhance views and vistas internally for residents as they enter the site, providing a connection to the greater bushland landscape and neighbourhood character.</p> <p>As noted above the creation of this central green landscaped spine running on the north south axis can be achieved through the deletion of the following units: LG05, LG06, G08, G17, G18, G23, 110, 118, 119, 124, 210 and 214.</p> <p>Whilst this represents a reduction in yield across the site of 10 units the increased amenity for residents of the site cannot be underestimated.</p> <p>This provides an approximate 6.0m separation to the pavilion style buildings which is more in keeping with the principles of ADG (Apartment Design Guide), given the typology and style of site</p>





Internal Referral Body	Comments
	<p>planning and buildings demonstrate a high density approach to the site.</p> <p>Further to this, rotation of the units to the upper southern blocks on the site so as to orient units on the north south axis at all levels optimising environmental and general site amenity, as previously discussed, is recommended</p> <p><b>WDCP 2011</b></p> <p><i>D1 Landscaped open space and bushland setting</i></p> <p><i>1 Requirements</i></p> <p><i>1. The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and Bushland Setting. To measure the area of landscaped open space:</i></p> <p><i>a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;</i></p> <p><i>b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;</i></p> <p><i>c) Landscaped open space must be at ground level (finished); and</i></p> <p><i>d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.</i></p> <p>It is noted that less than 40% has been dedicated to landscaping across the site. This is not supported and, as mentioned above, the ground built form to space ratio, in particular the lower part of the site, presents a built form wall to residents entering the site, providing no connection to the greater site through vistas or green through site connections. Deletion of units to allow for a generous central green spine/circulation, zone is highly recommended.</p> <p><i>D9 Building Bulk</i></p> <p><i>Objectives</i></p> <ul style="list-style-type: none"> <li><i>• To encourage good design and innovative architecture to improve the urban environment.</i></li> <li><i>• To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.</i></li> </ul> <p><i>Requirements</i></p> <p><i>1. Side and rear setbacks are to be progressively increased as wall height increases.</i></p> <p><i>2. Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.</i></p> <p><i>3. On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:</i></p>

Internal Referral Body	Comments
	<p><i>The amount of fill is not to exceed one metre in depth. Fill is not to spread beyond the footprint of the building. Excavation of the landform is to be minimised.</i></p> <p><i>4. Building height and scale needs to relate to topography and site conditions.</i></p> <p><i>5. Orientate development to address the street.</i></p> <p><i>6. Use colour, materials and surface treatment to reduce building bulk.</i></p> <p><i>7. Landscape plantings are to be provided to reduce the visual bulk of new building and works.</i></p> <p><i>8. Articulate walls to reduce building mass.</i></p> <p>As discussed herein an opportunity to create greater internal site amenity should be further explored in terms of building bulk to break down the built form.</p> <p>There are instances of large expanses of unarticulated walls to the western and eastern elevations. Walls to these lower buildings currently present as blank and monolithic. Further detail to modulate and articulate these elevations is required.</p> <p><b>Privacy Overlooking</b></p> <p>The current orientation of the units with southern aspect balconies present the potential for overlooking into neighbouring properties in particular from the eastern boundary units in to 18 Gladys Avenue, with direct views to this residential detached single storey dwelling. Flipping the plan so the balconies orient toward the north, as discussed above, will mitigate any overlooking issues to the development.</p> <p>The addition of privacy screening treatments to the units adjacent neighbouring properties will be required.</p>
Traffic Engineer	<p><b>Servicing:</b> Servicing is subject to Council's Waste Team concurrence. Should the space in front of the property require signposting to ensure adequate servicing facilities, the applicant should address this in their Traffic Impact Assessment.</p> <p><b>Parking:</b> Under the SEPP, the requirement for parking provisions for a boarding house is 0.5 spaces per room. The proposal is for an 82 room boarding house. The total parking spaces required is 42 car parking spaces. The application is therefore deficient by 21 spaces. The provision of bicycle parking and motor bike parking is not deemed a suitable offset to the requirement and should be noted as being in addition to the parking requirement. The applicant shall be required to amend the proposal to either provide the necessary parking, or reduce the number of rooms to make the parking provisions compliant.</p>

Internal Referral Body	Comments
	<p><b>Layout:</b> The applicant has proposed a less than adequate width driveway which only accommodates 1 vehicle accessing the ramp at a time. Based on the poor sight lines from the top and bottom of the driveway, the applicant shall be required to provide a internal basement signalized system, or alternatively provide a 5.5m two-way driveway ramp.</p> <p><b>Traffic:</b> 82 units is anticipated to produce approximately 17 vehicles in the peak hour, in accordance with the RMS Guide to Traffic Generating Developments. 17 vehicles equates to 1 vehicle every 3.5 minutes. This is deemed to have no significant impact on the local road network.</p> <p><b>Pedestrian:</b> Access through the basement level is deemed adequate for pedestrian and vehicular interaction. The applicant will be required to upgrade the footpath and public domain along the frontage of the property to ensure safe pedestrian access to and from the site.</p> <p>Based on the above, Council's Traffic Team cannot support the proposal in its current form.</p>
Waste Officer	<p>The development at 16 Gladys Avenue Frenchs Forest fails to comply with the Northern Beaches Council Waste Management Guidelines. As the development is greater than 80 dwellings, the site must allow for on-site (off street) waste collections as detailed in chapter 4, section 4.7.</p> <p>With regards to the waste room and bulk waste room, these both meet the requirements of the guidelines.</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)\*

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

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

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

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

### SEPP 55 - Remediation of Land

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

### SEPP (Affordable Rental Housing) 2009

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

### Division 3: Boarding houses

#### Clause 25: Definition

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

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

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

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

#### Clause 26: Land to which this Division applies

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone B1 Neighbourhood Centre, or (f) Zone B2 Local Centre, or (g) Zone B4 Mixed Use.	<b>Consistent</b> The site is located within the R2 Low Density Residential and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 27: Development to which this Division applies

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

Requirement	Comment
<p>(2) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.</p> <p><b>Note: Accessible area</b> means land that is within:</p> <p>(c) 400m walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p>	<p><b>Inconsistent</b></p> <p>The site is located within the R2 Low Density Residential zone and is situated not more than 400m of both east and westbound bus stops.</p> <p>The bus stops are both used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.</p> <p>However, there is no footpath leading from the site to the end of Gladys Avenue and the application does not proposed to construct one.</p> <p>In this regard, the proposal is not considered to be within a safe walking distance from the signalised intersection and bus stops at the end of Gladys Avenue.</p>
<p>(3) Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.</p>	<p>Not applicable.</p> <p>The site is located within the Sydney region.</p>

Clause 28: Development may be carried out with consent

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

Clause 29: Standards that cannot be used to refuse consent

Standard	Requirement	Proposed	Compliant/Comment
<p><b>(1) Density and scale</b></p> <p>DA2018/2019</p>	<p>(a) the existing</p>	<p>Floor space ratios are</p>	<p>Not applicable</p>

A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:	maximum floor space ratio for any form of residential accommodation permitted on the land, or	not applied in WLEP 2011 or WDCP.	
	(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	Floor space ratios are not applied in WLEP 2011 or WDCP.	Not applicable
	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:  (i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or  (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	The site is located in a zone that does not permit residential flat buildings.	Not applicable
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:			
<b>(a) building height</b>	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The proposal is compliant with the maximum height of buildings development standard in the Warringah LEP 2011.	Compliant





<b>(b) landscaped area</b>	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	<p>It is acknowledged that the proposal includes the removal of the existing high front fence. Removing this fence will improve the treatment of the front yard. However, the proposed boarding house is a completely new development and requires a high quality front set back area in order to reduce its impacts on the streetscape.</p> <p>In this regard, proposing elements of the development a minimum of 3.72m from the front boundary reduces the available landscaped area, and will not create an adequate sense of openness commensurate with the scale of the development and the surrounding properties.</p> <p>In addition, the access driveway has an insufficient width to allow two way traffic and would need to be widened. This would take out more of the limited remaining landscaping in the front yard.</p> <p>Overall, the development does not have sufficient landscaped area in the front yard and the built elements of the design have insufficient setbacks to create a front yard that is compatible with the streetscape.</p>	Not compliant
<b>(c) solar access</b> DA2018/2019	where the development	The development	Compliant



	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,	includes one communal living room. This room will receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	
<b>(d) private open space</b>	<p>if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m<sup>2</sup> with a minimum dimension of 3.0m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8.0m<sup>2</sup> with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	<p>The rooftop communal open space has an area of 47.06sqm.</p> <p>The communal open space adjacent to the communal living room has an area of 78.14sqm.</p> <p>The managers unit has a balcony of 19.06sqm with minimum dimensions greater than 2.5m.</p>	Compliant
<b>(e) parking</b>	<p>if:</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of</p>	<p>The development is not being carried out by or on behalf of a social housing provider and therefore a 0.5 spaces per room rate applies.</p> <p>The proposal requires 42 spaces (41 for the lodgers and 1 for the manager).</p> <p>The proposal provides 21 spaces.</p> <p>Parking is already a critical issue in Gladys Avenue, which is notable for having little available on-street parking. Adding this development with such a significant lack of off-</p>	Not compliant



	<p>development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>street parking spaces would create unacceptable impacts to the residents of Gladys Avenue and the surrounding streets due to the greatly increased demand for on-street parking.</p> <p>This significant non-compliance is a fundamental issue with this application and cannot be supported. Parking has been included as a reason for refusal of the application.</p>	
<b>(f) accommodation size</b>	<p>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:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>All boarding rooms are double occupancy and are between 16.47sqm and 23.2sqm in floor area.</p>	Compliant
	<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>All boarding rooms have kitchen and bathroom facilities.</p>	Compliant
	<p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>	<p>The non-compliances with the above standards cannot be supported and have been included as reasons for refusal.</p>	N/A

Clause 30: Standards for boarding houses

Standard requirement	Proposed	Compliant/Comment
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	A communal living room is included in the proposal.	Compliant
(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 25m <sup>2</sup> ,	All boarding room are between 16.47sqm and 23.2sqm in floor area.	Compliant
(c) no boarding room will be occupied by more than 2 adult lodgers,	All boarding rooms can accommodate a maximum of two lodgers.	Compliant
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Each boarding room includes adequate bathroom and kitchen facilities for the use of each lodger.	Compliant
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	An onsite managers unit is provided.	Compliant
(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,	The boarding house is not on land zoned primarily for commercial purposes.	Compliant
(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.	With 82 rooms, the proposal requires 17 bicycle spaces and 17 motorcycle spaces.  The proposal provides 17 bicycle spaces and 17 motorcycle spaces and therefore complies.	Compliant
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	The proposal is for a new boarding house.	N/A

30AA Boarding houses in Zone R2 Low Density Residential

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

Comment:

Clause 30AA was made part of the SEPP ARH on 28 February 2019. This was after the lodgement of the application, on 22 December 2018 but before a determination.

However, upon the making of the amendment to introduce Clause 30AA, savings provisions were also made that apply *'to a development application that was made before the commencement of the amending SEPP and was not determined by a consent authority or, if appealed, not finally determined by a court before that commencement.'* The saving provisions require that *'the application must be determined by applying all provisions of this Policy as if the amending SEPP had not commenced.'*

While this clause does not apply to this application, it does give a very clear indication of the scale and size of future boarding houses in the R2 Low Density Residential zone.

In this regard, the proposed 82 room boarding house would be significantly inconsistent with this clause, had the application been made after 28 February 2019.

Clause 30A: Character of the local area

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003)* NSWLEC 268 and *Project Venture Developments v Pittwater Council (2005)* NSWLEC 191 where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases.

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

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

Comment:

The existing residential dwellings in Gladys Avenue are all either single or two storey buildings. The proposed boarding house is three storeys, plus a basement level, for the majority of its length.

While the development does remain under the 8.5m height limit, the massing, three storey design and number of stories is not compatible with surrounding development.

In this regard, it is considered that the scale of the development is incompatible with the streetscape and inconsistent with the first principle.

- *The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building.*

*Sections of a building, or separate buildings should be separated by generous breaks and landscaping.*

Comment:

The development is split into two main building elements, being on the northern and southern parts of the site. They are linked by the basement carpark.

The northern element has two attached blocks that are 27.66m and 28.1m long (north to south), and 33.37m wide (each block is 15.55m wide, plus the linked corridor). This element has a total area of approximately 848sqm.

The southern element also has two attached blocks that are 20.63m and 24.39m long (north to south) and 26.16m wide (each block is 12.3m wide, plus the lobby linking the blocks). This element has a total area of approximately 500sqm.

The approximate total areas of nearby dwellings include: 192sqm (16A Gladys Avenue), 326sqm (16B Gladys Avenue), 297sqm (18 Gladys Avenue), 279sqm (14 Gladys Avenue), 162sqm (18A Gladys Avenue) and 179sqm (10 Gladys Avenue).

The largest nearby dwelling is 174sqm smaller than the smallest element of the proposal. It is therefore reasonable to conclude that the size of each of the large elements of the development are much greater than the other buildings in the street.

It is acknowledged that the subject site is larger than the surrounding properties. However, this alone does not justify the size of the current proposal. The non-compliances with various built form controls, in particular the wall height and landscaped open space, result in a development that is excessive, even for the significant size of this site. The breaks between the building elements are not large enough and do not contain sufficient plantings to create adequate visual breaks to minimise the appearance of one large building.

In this regard, the development is considered to be incompatible with the scale of surrounding development and inconsistent with the second principle.

- *The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.*

Comment:

The slope of the site down towards the north is dealt with reasonably well, in that the design remains under the height limit.

The proposal includes the removal of much of the significant vegetation within the front yard, which currently gives the site a unique bushland characteristic when viewed from the street. Some of this vegetation could remain if a more appropriate design for the site was being proposed.

In this regard, it is not considered that the existing characteristics of the site have been sufficiently preserved to reduce the visual dominance of the development. The proposal is inconsistent with the third principle.



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

Comment:

The colours and materials chosen for the development are suitable for the area and will reflect the surrounding development.

The building form is not consistent or compatible with surrounding dwellings, in that the development presents as large three storey structures with large expanses of blank walls, along with multiple side facing windows and balconies.

The proposal appears as a large residential flat building, rather than a smaller series of buildings separated by landscaped breaks. It is clear that the desire to fit three levels of boarding rooms (each with as many rooms as possible) across the site has come at the expense of an innovative design that will reflect the building forms of other structures in the street.

In this regard, the proposal is considered to be inconsistent with the fourth principle.

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

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

Comment:

The physical impacts of the development on surrounding properties are assessed as consisting of constraints on the development potential of surrounding sites, privacy, overshadowing and noise.

Constraints on the development potential of surrounding sites

The proposal would not prevent the physical construction of other development on surrounding sites, however, the increased demand for on street parking would negatively impact on the ability of other sites to host a similar development.

In this regard, the development is considered to constrain the development potential of surrounding sites due to the impact on on-street parking, caused by the significant off-street parking deficiency.

Privacy

This matter has been discussed in detail under Part D8 Privacy, in the Warringah DCP section of this report. In summary, the privacy impacts of the development on surrounding properties are unreasonable. Privacy impacts have been included as a reason for refusal.

Overshadowing

The orientation of the site and the setbacks of the proposal will mean that all neighbouring properties will retain more than three hours of sunlight between 9am and 3pm in mid winter.

### Noise

The Acoustic Report submitted with the application does not address the impacts from the common room, common outdoor area or the roof top common area. The outdoor areas are large and could accommodate 10-20 people each. The common room and common outdoor area are located near the centre of the development and close to the eastern boundary. There is a dwelling to the east that is approximately 10m from this common area. The roof top common area is near the rear of the site but is elevated.

The location of the common outdoor area is not ideal as noise from it has the potential to impact on both the boarding house residents and neighbouring property to the east.

In this regard, Council cannot be satisfied that the proposal will not result in unreasonable acoustic impacts to nearby properties.

### Conclusion to character assessment

The above character assessment has found that, in the context of the Land and Environment Court Planning Principles, the proposal will result in unreasonable amenity impacts and is of a built form that is excessive for the site. The development is therefore not compatible with the character of the local area.

This matter warrants the refusal of the Development Application.

### Conclusion

The proposal is for a large, three storey, 82 room boarding house within a low density residential area characterised by detached single and two storey dwellings. The development does not provide sufficient off-street car parking, leading to unreasonable impacts on Gladys Avenue and surrounding streets. The development is not compatible with the character of the local area as a result of its size and scale. The development will also result in unreasonable amenity impacts on surrounding properties.

In this regard, the proposal does not meet the requirements and standards within the SEPP ARH and should be refused.

## **SEPP (Infrastructure) 2007**

### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

**Warringah Local Environmental Plan 2011**

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	8.5m	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	No

Detailed Assessment

**Zone R2 Low Density Residential**

The underlying objectives of the R2 Low Density Residential zone:

- To provide for the housing needs of the community within a low density residential environment.*

Comment:

While the proposal will provide additional housing for members of the community, its size, scale and resulting impacts will compromise the low density residential environment.

It is considered that the development does not satisfy this objective.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

It is considered that the development satisfies this objective.

- To ensure that low density residential environments are characterised by landscaped settings*

*that are in harmony with the natural environment of Warringah.*

Comment:

The proposed development does not include sufficient landscaping (discussed in detail under Part D1 Landscaped open space and bushland setting, below in this report) and as such, is not considered to be characterised by a landscaped setting that is in harmony with the natural environment of this area (former Warringah).

It is considered that the development does not satisfy this objective.

The proposals inconsistency with the aims of the WLEP 2011 has been included as a reason for refusal.

#### 6.4 Development on sloping land

The objectives of Clause 6.4 - 'Development on Sloping Land' require development to:

- (a) avoid significant adverse impacts on development and on properties in the vicinity of development sites resulting from landslides originating either on or near sloping land, and*
- (b) ensure the impacts of storm water runoff from development on or near sloping land are minimised so as to not adversely affect the stability of the subject and surrounding land, and*
- (c) ensure subsurface flows are not adversely affected by development so as to not impact on the stability of existing or adjoining land.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

Clause 6.4 - 'Matters for Consideration'	Comments
Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:	
(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life.	The Preliminary Geotechnical Assessment submitted with the application is dated 14 December 2017. This was before the lodgement of DA2017/1344 (the previous boarding house design for the site). The report has not been updated to reflect the new design and as such, the consent authority cannot be satisfied that the development being applied for under the current application has been assessed for the risk associated with landslides in relation to both property and life.
(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site.	Council's Development Engineers have reviewed the stormwater system and recommended the application be refused due to the system being inadequate. In this regard, the consent authority cannot be satisfied that this development will not cause significant detrimental impacts because of stormwater discharge from the development site.
(c) the development will not impact on or affect the existing subsurface flow conditions.	As a result of the outdated Geotechnical Report, the consent authority cannot be satisfied that the development being applied for under the current application will not impact on or affect the existing subsurface flow conditions

This has been included as a reason for refusal of the application.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	Maximum - 8.3m	15.28%	No
B3 Side Boundary Envelope	East - 4m	No encroachments	N/A	Yes
	West - 4m	No encroachments	N/A	Yes
B5 Side Boundary Setbacks	East - 0.9m	Minimums: Basement - 2.0m Ground floor - 2.0m First floor - 2.0m Second floor - 5.1m	N/A N/A N/A N/A	Yes Yes Yes Yes
	West - 0.9m	Minimums: Basement - Nil Ground floor - 2.0m First floor - 1.04m Second floor - 5.1m	100% N/A N/A N/A	No Yes Yes Yes
B7 Front Boundary Setbacks	South - 6.5m	Minimums: Basement - 4.06m Ground floor - 6.84m First floor - 3.72m Second floor - 13.17m	37.54% N/A 42.77% N/A	No Yes No Yes
B9 Rear Boundary Setbacks	North - 6m	Minimums: Basement - 6.0m Ground floor - 6.0m First floor - 6.0m Second floor - 9.57m	N/A N/A N/A N/A	Yes Yes Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	Maximum of 34.6%	13.5%	No

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	No	No
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	No	No
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D1 Landscaped Open Space and Bushland Setting	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	No	No
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

## Detailed Assessment

### **A.5 Objectives**

The overriding objective of the DCP is to create and maintain a high level of environmental quality throughout the area covered by the Warringah LEP 2011. Development should result in an increased level of local amenity and environmental sustainability.

### **Objectives**

- To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.
- To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.
- To inspire design innovation for residential, commercial and industrial development.
- To provide a high level of access to and within development.
- To protect environmentally sensitive areas from overdevelopment or visually intrusive



development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.

- To achieve environmentally, economically and socially sustainable development for the community of Warringah.

Comment:

The proposal is for a large, three storey, 82 room boarding house within a low density residential area characterised by detached single and two storey dwellings. The development does not provide sufficient off-street car parking, which will lead to unreasonable impacts on Gladys Avenue and surrounding streets. The development is not compatible with the character of the local area as a result of its size and scale. The development will also result in unreasonable amenity impacts on surrounding properties.

In this regard, the proposal does not adequately respond to the characteristics of the site and the qualities of the surrounding neighbourhood, and the development will not be a good neighbour and will not contribute positively to the street.

The development does not meet all the objectives of the DCP and should be refused.

## **B1 Wall Heights**

Description of non-compliance

The proposal includes a maximum wall height of 8.3m.

The control requires a maximum of 7.2m.

Merit consideration:

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

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

Comment:

The wall height of the proposal exceeds the control for the majority of the development.

This non-compliant wall height contributes, along with the number of storeys and the overall building mass, to a development that will have an unreasonable visual impact when viewed from surrounding properties and the street.

The development does not meet this objective.

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

Comment:

The proposal includes the removal of much of the significant vegetation within the front yard, which currently gives the site part of its tree canopy. Some of this vegetation could remain if a

more appropriate design was being proposed.

However, overall, the development will remain below the rest of the surrounding tree canopy level.

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

Comment:

This matter is discussed in detail under Part D7 Views, below in this report. In summary, the proposal does result in some loss of views, however, the wall height is not a critical control in this case as the views are being lost over the side boundaries. The overall height is the key control and the development complies with the 8.5m height limit.

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

Comment:

As discussed throughout this report, the development will result in unreasonable impacts on adjoining and nearby properties. These impacts include privacy, bulk and scale, and traffic and parking.

The non-compliance with the wall height will partly contribute to these impacts, in that the increased number of stories within the height of the building increases its overall mass and increases the number of rooms in the boarding house, particularly the upper level of the development where privacy impacts are the greatest.

In this regard, the development does not meet this objective.

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

Comment:

The development does remain under the height limit on the sloping subject site. The excavation for the basement, while substantial, is considered to be acceptable from the perspective of minimising impacts to the natural land form.

While minimising excavation is a positive aspect of the development, the number of car parking spaces contained within the basement is significantly deficient for the number of rooms proposed.

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

Comment:

The development proposes a flat roof style across most of the built form. There is some innovation at the front of the site, with angled and curved elements, however, overall, the desire to fit three levels of boarding rooms across the site has come at the expense of an innovative roof design that will provide visual interest to the area.

The development does not meet this objective.

The wall height non-compliance is not supported and has been included as a reason for refusal of the application.

## **B5 Side Boundary Setbacks**

### Description of non-compliance

The basement has a nil setback to the western boundary.

The control requires minimum setbacks of 900mm.

### Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

#### Comment:

This matter is discussed in detail under Part D1 Landscaped open space and bushland setting, below in this report. In summary, the development includes a maximum of 34.6% landscaped open space, less than the 40% minimum control.

The landscaped open space that is provided is not sufficient to provide usable outdoor open space for the residents or to provide adequate space for planting to screen the bulk of the development.

However, the non-compliant basement is not considered to detrimentally affect the opportunities for deep soil landscaped areas as the non-compliant element sits mostly under the access driveway and does not directly limit landscaped open space.

- *To ensure that development does not become visually dominant.*

#### Comment:

The non-compliant basement is underground and will therefore not become visually dominant.

The development as a whole will be unreasonably visually dominant and this is discussed in detail elsewhere in this report.

- *To ensure that the scale and bulk of buildings is minimised.*

#### Comment:

The non-compliant basement is underground and will therefore not contribute to bulk and scale of the above ground elements of the proposal.

However, the development as a whole will have an unreasonable scale and bulk, this is discussed in detail elsewhere in this report.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy,*

*amenity and solar access is maintained.*

Comment:

The non-compliant basement is underground and will therefore not contribute to privacy, solar access or other amenity impacts.

However, the development as a whole will have unreasonable privacy and amenity impacts, and these are discussed in detail elsewhere in this report

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

Comment:

The non-compliant basement is underground and will therefore not contribute to the loss of views.

The side setback non-compliance of the proposed basement is not considered to be unreasonable on its own. As a single aspect of the proposal, it can be supported.

## **B7 Front Boundary Setbacks**

### Description of non-compliance

The basement and first floor of the development are set back a minimum of 4.06m and 3.72m respectively.

The control requires a minimum of 6.5m.

### Merit consideration:

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

- *To create a sense of openness.*

Comment:

It is acknowledged that the proposal includes the removal of the existing high front fence. Removing this fence will improve the current lack of a sense of openness.

However, the proposed boarding house is a completely new development and requires a high quality front set back area in order to reduce the impacts on the streetscape from what is a much larger building than the current dwelling on the site.

In this regard, proposing elements of the development a minimum of 3.72m from the front boundary will not create an adequate sense of openness commensurate with the scale of the development.

In addition, the access driveway has an insufficient width to allow two way traffic and would need to be widened. This would take out some of the remaining landscaping in the front yard, further reducing the sense of openness.

Overall, the development does not have sufficient landscaped area in the front yard, and the built elements of the design have insufficient setbacks, to create a reasonable sense of openness.

The development does not meet this objective.

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

Comment:

The existing pattern of buildings and landscape elements that make up the streetscape consist mainly of open vegetated front yards with dwellings that are well set back from the boundary. There are examples of high front fences, however, these are not desirable characteristics of the street and cannot be used as examples to justify the impacts of the development.

The proposal is a large boarding house that would require a wider driveway. While the subject site does narrow at the front boundary, the setbacks of the built elements and the amount of landscaped area is unacceptable for the scale of the development.

The development does not meet this objective.

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

Comment:

As discussed above, the non-compliant front setbacks of the built elements and the insufficient amount of landscaped area in the front yard result in the development not protecting or enhancing the visual quality of the streetscape.

The development does not meet this objective.

- *To achieve reasonable view sharing.*

Comment:

The proposal does result in some loss of views, however, the front setback of the building is not a critical control in this case as the views are being lost over the side boundaries near the mid point of the site. The overall height is the key control in this regard and the development complies with the 8.5m height limit.

The front setback non-compliance is not supported and has been included as a reason for refusal.

## **C2 Traffic, Access and Safety**

### Merit consideration

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

- *To minimise traffic hazards.*

Comment:

The width of the entry driveway is between 3.1m and 3.714m. The internal ramped driveway is a minimum width of 4.101m. These widths allow only a single car and are inadequate. These driveways should be two-way and have minimum widths of 5.5 metres.

The aisles widths and parking layout does not comply with Australian Standard 2890. There is no ability for vehicles to turn around if the basement is full.

- *To minimise vehicles queuing on public roads.*

Comment:

The basement layout would result in vehicle conflicts when vehicles are accessing/egressing the basement and when travelling between levels. The inadequate widths would result in vehicles queuing in Gladys Avenue.

- *To minimise the number of vehicle crossings in a street.*

Comment:

Only one crossing is proposed, although it would need to be widened to cope with two way traffic.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

The proposed side boundary fence would result in poor sight lines for vehicles leaving the basement, placing pedestrian using Gladys Avenue at risk.

- *To minimise interference with public transport facilities.*

Comment:

The proposal will not interfere with public transport facilities.

- *To minimise the loss of "on street" kerbside parking.*

Comment:

As discussed below, the proposal has a significant non-compliance in relation to off-street parking requirements. This will result in a loss of on-street parking in Gladys Avenue and surrounding streets.

Traffic, access and safety has been included as a reason for refusal of the application.

### **C3 Parking Facilities**

#### Merit consideration

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



- To provide adequate off street carparking.

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Number of Rooms	SEPP ARH requirement	Car Spaces Provided
Boarding House	"Comparisons must be drawn with developments for a similar purpose."	81 x boarding rooms. 1 x managers room.	40.5 spaces plus 1 managers space = 42 (rounded up) spaces.  Being a rate of 0.5 spaces per room (plus 1 space for the managers apartment)	21 spaces including 1 disabled space.  Being a rate of 0.25 spaces per room (plus 1 space for the managers apartment)

The DCP does not specify a parking rate for boarding houses, rather, it requires a comparison to be made with developments for a similar purpose.

In order to decide on a reasonable rate for comparison, three points are worth noting.

The first is that the vast majority of approved and constructed boarding houses in the Northern Beaches LGA were approved using a rate of 0.2 spaces per room. This rate was the standard in the SEPP ARH until it was increased in June 2018 to 0.5 spaces per room. The increase in the SEPP ARH rate occurred before the lodgement of this DA and the applicant was therefore fully aware of the minimum standard in the SEPP ARH.

The second point is that all current boarding houses that the SEPP ARH applies to, are being assessed under the 0.5 spaces per room rate, as this is the current standard in the SEPP ARH.

The third point is that a lower parking rate (compared to the rate for studio apartments which is generally 1 space per room) is granted to boarding house developments in the SEPP ARH because they are located close to (i.e. within 400m of) public transport options.

The subject site is located within 400m of eastbound and westbound bus stops. However, the site is not located close to a large range of services and transport options, being more than one kilometre from Forest Way Shopping Centre (the closest set of shops to the site). In addition, the buses that run along Frenchs Forest Road do not have the same frequency or capacity as those on, for example, the Pittwater Road corridor.

As previously discussed, parking is already a critical issue in Gladys Avenue, which is notable for having little available on-street parking.

Based on the above, the site is not considered appropriate for a lower rate of parking than the

current minimum in the SEPP ARH of 0.5 spaces per room, which was specifically increased in response to community concerns around the impact of boarding houses on on-street parking. It could be argued that a higher rate than the 0.5 spaces per room is appropriate for this site, given the current state of Gladys Avenue and the lack of on-street parking on Frenchs Forest Road (meaning any spill over will impact on other nearby streets that already have their own issues with on-street parking). However, the SEPP ARH does not allow this development to be refused if it provides 0.5 spaces per room.

As demonstrated in the table above, the proposal is significantly deficient in parking spaces. This non-compliance will add unreasonable impacts onto Gladys Avenue, surrounding streets and the residents who live there.

The development therefore does not provide adequate off street car parking and does not meet this objective. This is a fundamental issue for the application and has been included as a reason for refusal.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The off-street parking is located in a basement and will therefore have a minimal visual impact on the street frontage.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The off-street parking is located in a basement and will therefore not dominate the street frontage.

## **C4 Stormwater**

The proposed stormwater design was reviewed by Council's Development Engineers who could not support the development. Their comments and reasons are listed above, in the referral body comments section of this report.

This is a fundamental issue with the application and has been included as a reason for refusal.

## **C9 Waste Management**

The proposed waste room and on-going waste management system was reviewed by Council's Waste Officers who commented that while the waste room and bulk waste room both meet the requirement of the guidelines, as the development is greater than 80 dwellings, the site must allow for on-site waste collections as detailed in chapter 4, section 4.7 of the guidelines.

On-site collection is not proposed. Instead, the applicant has positioned the bin room at the front of the development to allow Council's contractors to access the bins. The impacts of this design decision, and its effect on the presentation of the development to the street, are discussed elsewhere in this report.

Without on-site collection, Council's Waste Officers could not support the development.

This is a fundamental issue with the application and has been included as a reason for refusal.

## **D1 Landscaped Open Space and Bushland Setting**

### Description of non-compliance

The proposal provides less than 34.6% (835.06sqm) of the site as landscaped open space.

The control requires a minimum of 40% landscaped area to be provided over the property.

The landscaped open space on the site contains numerous drains as well as other partly paved areas that do not strictly meet the definition of landscaped open space.

### Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

#### Comment:

The proposal, while removing the existing high front fence, reduces the amount of landscaped open space within the front setback but proposes a development of a far greater scale than the existing dwelling.

The front setback of the proposal does not comply with the control (thereby reducing the potential landscaped area in the front yard) and the proposed single width driveway would need to be widened to allow two way traffic (further reducing the area available for planting).

Given the size of the site and the scale of the development, the amount of landscaped open space provided in the front setback area is insufficient to maintain and enhance the streetscape.

The development does not meet this objective.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

#### Comment:

The proposal includes the removal of a number of existing trees within the front yard and across the site. The proposed landscape area that remains is less than the 40% minimum requirement.

The proposal does not sufficiently conserve or enhance indigenous vegetation or habitat for wildlife, and therefore the development does not meet this objective.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

#### Comment:

The proposed landscaped areas that can be planted out with vegetation to provide reasonable screening for the building, are located in the front and rear yards.

There are some areas along the sides of the development, however, the plans indicate that these will be used as pathways and/or contain large stormwater drains. The landscape plan does not show these drains but does show a more extensive pathway network than the site plan.

The landscaped areas within the development (i.e. between the building elements) are indicated to be used as communal open space and/or contain areas of paving. These spaces are not suitable for the establishment of medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

As discussed above, the front yard is not of a size necessary for a development of this scale.

The rear yard is larger and will provide some screening for the properties to the rear and is considered to be of acceptable dimensions. However, it alone is not adequate to make up for the deficient landscaping across the rest of the site.

Overall, the front, sides and centre of the development do not contain landscaped open spaces with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.

- *To enhance privacy between buildings.*

Comment:

The planting within the rear yard will enhance the privacy between the subject site and the properties to the rear, however, the proposal relies entirely on landscaping to resolve the significant privacy impacts cause by the design of the development (i.e. the 28 rear facing rooms and the roof top common area looking onto Nos. 16A and 16B Gladys Avenue).

In addition, the side facing rooms on the upper element of the boarding house overlook the neighbouring properties. The development does not have sufficient space or soil volume between these rooms and the boundary to mitigate the privacy impacts.

As landscaping requires good management and good luck to survive, it cannot be relied upon alone to solve privacy impacts.

Overall, the proposal does not provide sufficient landscaped open space to enhance privacy between buildings and does not meet this objective.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

A boarding house does not require the same type of outdoor recreation spaces as a detached dwelling. The landscaped areas on the site are mainly used to screen the building and assist with enhancing the privacy of the neighbouring properties.

While the proposal does provide sufficient outdoor recreational opportunities that meet the

needs of the occupants, the overall provision of landscaped open space is inadequate.

- *To provide space for service functions, including clothes drying.*

Comment:

Sufficient space for service functions is provided.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The stormwater design was reviewed by Council's Development Engineers who raised concerns relating to stormwater and could not recommend approval. The concerns are partly caused by the lack of deep soil areas suitable for infiltration of stormwater. As discussed above, the proposal is deficient in the provision of landscaped open space.

In this regard, the development does not meet this objective.

The lack of landscaped open space is a fundamental issue for this application and has been included as a reason for refusal.

### **D3 Noise**

Merit consideration

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

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

Comment:

The Acoustic Report submitted with the application does not address the impacts from the common room, common outdoor area or the roof top common area. The outdoor areas are large and could accommodate 10-20 people each. The common room and common outdoor area are located near the centre of the development and close to the eastern boundary. There is a dwelling to the east that is approximately 10m from this common area. The roof top common area is near the rear of the site but is elevated.

The location of the common outdoor area is not ideal as noise from it has the potential to impact on both the boarding house residents and neighbouring property to the east.

In this regard, Council cannot be satisfied that the proposal will not result in unreasonable acoustic impacts to nearby properties.

The design is therefore not considered to be an innovative solution that will improve the urban environment.

- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

Comment:

As above, the roof top common area and the common outdoor area will result in unreasonable acoustic impacts to nearby properties.

This matter has been included as a reason for refusal of the application.

## **D7 Views**

### Merit consideration

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

- *To allow for the reasonable sharing of views.*

#### Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

#### **1. Nature of the views affected**

*"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".*

#### Comment to Principle 1:

Views will be affected from No. 18 Gladys Avenue, a property to the east of the subject site.

The views to be affected consist of district and sky views to the North West, over the subject site.





## 2. What part of the affected property are the views obtained

*“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.*

### Comment to Principle 2:

The views are obtained from the living room/area, the pool, the rear deck and the master bedroom. The views are obtained from sitting and standing positions and are over the side boundary.

## 3. Extent of impact

*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.*

### Comment to Principle 3:

The views that will be lost are clearly valuable to the residents of No. 18 Gladys Avenue and they will be lost from the important parts of their dwelling and property. However, they will retain most of their existing views as the proposal will only block those to the North West, over the side boundary.

In this regard, the view loss is considered to be minor/moderate.

#### **4. Reasonableness of the proposal that is causing the impact**

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

##### Comment to Principle 4:

As the views to be affected from No. 18 Gladys Avenue are over the side boundary of the subject site, and in a North Westerly direction (towards the rear boundary) the critical controls relating to view loss in this particular case are height, rear setback and side boundary envelope.

The proposal is fully compliant with these three controls and can therefore be considered a reasonable development in this regard.

The question as to whether there is a better design option is difficult to answer in this case. This is because this assessment has found that the bulk, scale and massing of the proposal is excessive and the development is being recommended for refusal. In order to resolve these issues a smaller development is required. This will inevitably result in increased view sharing.

The site is large enough that a different design is possible, that includes the current number of rooms, that would increase view sharing from No. 18 Gladys Avenue. However, this may move other impacts onto other properties.

Overall, the development is fully compliant with the controls relating to view loss and a smaller proposal (that resolves the other issues outlined in this report) could still block the same amount of views from No. 18 Gladys Avenue.

As such, view loss is not considered necessary to be included as a reason for refusal.

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

##### Comment:

As discussed previously, the desire to fit three levels of boarding rooms (each level with as many rooms as possible) across the site has come at the expense of an outcome that will improve the urban environment and result in reasonable amenity for all future occupants and neighbours.

- *To ensure existing canopy trees have priority over views.*

##### Comment:

The proposal includes a landscape plan containing canopy trees.

## D8 Privacy

### Merit consideration

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

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

#### Comment:

The dwellings at Nos. 16A and 16B Gladys Avenue, directly to the north (rear) of the site will be faced by 36 boarding rooms, 28 of these will have direct views into these properties, along with the roof top common outdoor area. This will result in unreasonable privacy impacts on these adjoining properties.

The dwellings at Nos. 14 and 18 Gladys Avenue (to the west and east of the site respectively) will be faced by rooms on the first and second floors. These rooms are orientated to face the side boundaries and will overlook the neighbouring properties. This will result in unreasonable privacy impacts.

Internally, the proposed development has inadequate setbacks between the building elements, which will allow direct views between boarding rooms. The development would also result in direct views between common circulation spaces and boarding rooms. Rooms with direct overlooking include 105, 109, 110 to 114, 119 to 123 (and corresponding rooms on the level above).

The roof top common open space will result in acoustic and visual privacy impacts to the adjoining properties and to adjoining boarding rooms, including rooms 210 and 214 to 217

The proposed development will result in unreasonable privacy impacts and an unacceptable reduction in residential amenity for surrounding properties. The development will also not result in reasonable visual and acoustic privacy for all future occupants of the boarding house.

The development does not meet this objective.

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

#### Comment:

The desire to fit three levels of boarding rooms (each with as many rooms as possible) across the site has come at the expense of an innovative design that will provide reasonable visual and acoustic privacy for all future occupants and neighbours. The proposal will not improve the urban environment for the residents of Gladys Avenue.

The development does not meet this objective.

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

#### Comment:

The proposed development will provide reasonable personal and property security for occupants and visitors.

Privacy is a fundamental issue for this development and has been included as a reason for refusal.

## **D9 Building Bulk**

### Merit consideration

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

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

#### Comment:

The requirements of this clause include; increasing side and rear setbacks as wall height increases; avoiding large areas of continuous wall planes by varying building setbacks and using appropriate techniques to provide visual relief; orientating development to address the street; using landscape plantings to reduce the visual bulk of new buildings, and; articulating walls to reduce building mass.

The proposal is a large development separated into two main building elements. It is acknowledged that the development does include some articulation, on the horizontal and vertical planes. However, the level of articulation is not commensurate to the scale of the development. There are also several areas of large blank wall planes on both sides of the development, as well as insufficient landscaped areas to help minimise this bulk. In addition, the ground floor of the development presents the waste rooms to the street. This built form is not considered reasonable for the site.

A smaller scale series of structures broken up using generous visual breaks and landscaping is considered appropriate given the urban environment of Gladys Avenue is that of detached residential dwellings in generous landscaped settings.

While the architecture of the design is a positive element in terms of its colours, materials and style, the desire to fit three levels of boarding rooms (each level with as many rooms as possible) across the site has come at the expense of an outcome that will improve the urban environment and result in reasonable amenity for all future occupants and neighbours.

The proposal does not meet this objective.

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

#### Comment:

The proposal is for a large, three storey, 82 room boarding house within a low density residential area characterised by detached single and two storey dwellings. As discussed previously, the development is not compatible with the character of the local area as a result of its size and scale. The development will also result in unreasonable amenity impacts on surrounding properties.

Overall, the bulk, scale and massing of the proposal, along with the non-compliances to the front

setback and landscaped areas, results in a development that will have an unacceptable visual impact when viewed from adjoining properties and Gladys Avenue.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **CONCLUSION**

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

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

This proposal seeks consent for an 82 room (81 boarding rooms and one managers unit), three storey boarding house with a basement carpark, on No. 16 Gladys Avenue, Frenchs Forest, in a well established low density residential area. The site is surrounded by detached residential dwellings in landscaped settings.

The proposal was lodged prior to a change to the SEPP ARH that limited boarding houses in R2 Low Density Residential zones to 12 rooms. The change to the SEPP ARH included savings provisions, resulting in the 12 room limit not applying to this application.

The notification of the application resulted in 117 submissions being received, all of which objected to the proposal based on a large number of specific issues. Many of the concerns raised within the submissions are agreed with and have been incorporated into the reasons for refusal.



One critical issue raised by many of the submissions is that of parking. Parking is already a critical issue in Gladys Avenue, which is notable for having little available on-street parking. The proposed development has a significant off-street parking non-compliance (with the SEPP ARH provisions) and would create unacceptable impacts to the residents of Gladys Avenue and the surrounding streets.

The development does not meet the requirements and/or objectives of a number of clauses within the SEPP ARH, the WLEP 2011 and the WDCP. These include, character, parking, landscaping, wall heights, front boundary setbacks, waste management, noise, stormwater, privacy and building bulk.

The size and scale of the proposed boarding house is much greater than the surrounding and nearby detached residential dwellings. Each of the building elements are larger in scale than any nearby dwellings and there are insufficient landscaped areas around the development to reduce their impacts. There is also an inadequate landscaped setting within the front yard. In this regard, the development is incompatible with the character of the local area and will present a building bulk that will create an unacceptable visual impact.

The development would also result in unreasonable amenity impacts, including privacy and noise, to surrounding properties.

While the architecture of the design is a positive element in terms of its colours, materials and style, the desire to fit three levels of boarding rooms (each level with as many rooms as possible) across the site has come at the expense of an outcome that will improve the urban environment and result in reasonable amenity for all future occupants and neighbours.

For the reasons outlined within this report, the development cannot be supported and it is recommended that the panel refuse the application.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## **RECOMMENDATION**

THAT Sydney North Planning Panel, as the consent authority REFUSE Development Consent to Development Application No DA2018/2019 for the Demolition works and construction of a boarding house with basement parking on land at Lot 1 DP 548605, 16 Gladys Avenue, FRENCHS FOREST, for the reasons outlined in Attachment 1.



## ATTACHMENT 1

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979, in that the site is not suitable for the proposed development.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
4. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of the R2 Low Density Residential zone of the Warringah Local Environmental Plan 2011, in that, the development does not provide a suitable landscaped setting.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B1 Wall Heights of the Warringah Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B7 Front Boundary Setbacks of the Warringah Development Control Plan.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C3 Parking Facilities of the Warringah Development Control Plan.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4 Stormwater of the Warringah Development Control Plan.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C9 Waste Management of the Warringah Development Control Plan.
12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1 Landscaped Open Space and Bushland Setting of the Warringah Development Control Plan.

13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D3 Noise of the Warringah Development Control Plan.
14. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D8 Privacy of the Warringah Development Control Plan.
15. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan.
16. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.