

26th June 2025

The CEO
Northern Beaches Council
Po Box 82
Manly, NSW, 1655

Dear Sir,

**Request for review - Development Application DA2024/0044
Addendum Statement of Environmental Effects
Demolition works and construction of Seniors Housing with basement
parking
25 and 27 Kevin Avenue, Avalon Beach**

1.0 Introduction

On 10th January 2025 the subject development application was refused by the Northern Beaches Local Planning Panel for a number of reasons as outlined in the notice of determination of the same date.

This application seeks a review of the determination pursuant to section 8.2(1)(a) of the Environmental Planning and Assessment Act, 1979 (the Act). A number of amendments have been made to the proposed development in response to the reasons for refusal as detailed within the following amended/updated documentation:

- Architectural plans A.04(D), A.18(C) and A.19(D) prepared by Gartner Trovato Architects.
- Access report, dated 20th June 2025, prepared by Accessibility Solutions.
- Arborist report, dated June 2025, prepared by Treeism Arboricultural Services.
- Traffic and Parking Assessment Report, dated 18th June 2025, prepared by Terrafic.
- Clause 4.6 variation request - Distance the bus services.

Given the nature of the amendments sought, which go directly to responding to the stated reason for refusal of the application, Council can be satisfied that the request for review is appropriately made pursuant to section 8.2(1)(a) of the Act.

2.0 Claim for review

Having regard to the stated reasons for refusal of the application we respond as follows

1. *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 93 of SEPP Housing 2021.*

Particulars:

- (a) *Specifically, the application is inconsistent with the provisions of Clause 93 for the following reasons:*
 - *the proposed crossing of Kevin Avenue is in an unsafe location with sight lines obscured by a crest,*
 - *the pathway involves encroachment of private property,*
 - *insufficient survey detail has been provided to determine the gradient of the footpath, and*
 - *the requirement for the relocation of signs and a Telstra service pit, and modification to a stormwater inlet are supported by insufficient information to fully assess the proposal and determine the suitability of the proposed pathway*

Response: We confirm that a without prejudice site meeting was attended by the applicant's consultant team and Council's planning and engineering officers to identify required upgrade works to the existing public footpath network to ensure safe and convenient access from the site to the north and south bound bus stops on Barrenjoey Road.

The accompanying architectural plans depict the proposed pathway and road crossing upgrade works including compliant gradients and the identification of travel distances. There is now agreement between the applicant and Council's traffic engineer that the Kevin Avenue crossings are in a safe location with appropriate sight lines.

Further, the proposed footpath upgrade works do not require the relocation of any significant infrastructure with the modification to the stormwater inlet pit adjacent to the Central Road/Barrenjoey Road intersection able be achieved subject to additional detailing. No objection is raised to a suitably worded condition in this regard.

This reason for refusal has been resolved.

- (b) *There is insufficient information to assess the impact of the proposed footpath on street trees.*

Response: The application is accompanied by an arborist report prepared by Treeism Arboricultural Services.

This report confirms that of the 68 trees assessed 10 will require removal to accommodate the construction of the new pathway with all trees located on Council property within the road reserve. None of the assess trees are identified as endangered or threatened under State or Federal Government legislation.

In our opinion, the broader public benefit associated with the construction of a compliant gradient footpath along Kevin Avenue to the north and south bound bus stops on Barrenjoey Road and which negates the need for pedestrians to cross the heavily cambered Park Avenue intersection outweighs the impact of the tree removal proposed.

This reason for refusal has been resolved.

- (b) *The proposal exceeds the development standard for a 400m distance to a transport service, and a Clause 4.6 written request has not been provided, hence there is no statutory power to approve any variation to the development standard.*

Response: This submission is accompanied by a clause 4.6 variation request in support of a variation to clause 93(3)(a) of SEPP Housing 2021 in relation to the 400 metre distance requirement to transport services. We consider the clause 4.6 variation request to be well-founded.

This reason for refusal has been resolved.

- 2. *Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development has provided insufficient information to assess the application in accordance with the provisions of Clause 4.6 Exceptions to development standards of the Pittwater Local Environmental Plan 2014, in relation to the variation under Clause 93 of State Environmental Planning Policy (Housing) 2021.*

Particulars:

- (a) *The application involves excessive distances to a transport service, seeking a 441m distance to the south-bound bus stop and 415m to the north-bound bus stop, which are in excess of the 400m requirement under clause 93 of the SEPP.*
- (b) *A Clause 4.6 written request has not been submitted with the application to address the variation. Therefore, the departure from the development standard cannot be supported, as it is a jurisdictional requirement.*

Response: This submission is accompanied by a clause 4.6 variation request in support of a variation to clause 93(3)(a) of SEPP Housing 2021 in relation to the 400 metre distance requirement to transport services. We consider the clause 4.6 variation request to be well-founded.

This reason for refusal has been resolved.

3. *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 B6.3 Off-Street Vehicle Parking Requirements of the Pittwater 21 Development Control Plan.*

Particulars:

The proposal does not comply with the requirement for four (4) visitor car parking spaces, as it contains no visitor parking.

Response: Although the non-discretionary car parking development standard at clause 108(2)(k) of SEPP Housing 2021 does not require any visitor parking the basement plan has been amended to nominate three (3) visitor car parking spaces. The accompanying traffic and parking report contains the following commentary in relation to the number of visitors car parking spaces proposed:

While the SEPP does not require visitor parking, provision has been made for 3 visitor spaces in the basement including one disabled visitor space. This provision is one more space than that required by the RMS Guidelines and 0.3 of a space less than the DCP requirement. To that end, the provision of 3 visitor spaces will more than satisfy the likely demand generated by only 10 dwellings.

The development provides appropriately for off-street visitor carparking. This reason for refusal has been appropriately addressed.

4. *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 85 (Car Parking) of State Environmental Planning Policy (Housing) 2021.*

Particulars:

- (a) *The shared zones of the accessible spaces are obstructed by garage doors that restrict access.*
- (b) *There is insufficient information submitted with the application in relation to swept paths to demonstrate access to parking is adequate.*

Response: The plans have been amended to address these concerns with the swept path analysis contained within the accompanying traffic and parking report confirming that access to all car parking spaces is adequate.

This reason for refusal has been resolved.

5. *Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.*

Particulars:

- (a) *The proposed pathway to a transport service involve excessive distances to bus stops.*
- (b) *The impacts of the construction of the pathway in Kevin Avenue and its suitability cannot be fully determined. Therefore, the application is contrary to maintaining and protecting the public interest.*

Response: In relation to the distance to bus stops we rely on the accompanying clause 4.6 variation request. The additional information submitted as a component of this review request including detailed architectural plans and arborist report demonstrate that the pathway upgrade works will not give rise to unacceptable environmental impacts. In our opinion, the broader public benefit associated with the construction of a compliant gradient footpath along Kevin Avenue to the north and south bound bus stops on Barrenjoey Road and which negates the need for pedestrians to cross the heavily cambered Park Avenue intersection outweighs the impact of the tree removal proposed.

We also note that the existing footpath located on the northern side of Kevin Avenue adjacent to the Barrenjoey Road intersection was constructed to provide access to the north and south bound bus stops for the approved and constructed seniors housing development at 701 Barrenjoey Road, Avalon Beach. This footpath is extremely steep and non-compliant with the gradient requirements of SEPP Housing and accordingly the proposed footpath located on the southern side of Kevin Avenue will also provide compliant access to north and south bound bus stops on Barrenjoey Road for this existing seniors housing development. Such outcome is in the public interest.

This reason for refusal has been resolved.

In this regard, we consider that the amended development the subject of this application comprehensively addresses the reason for refusal of the development application and accordingly there is no statutory impediment to the granting of consent.

3.0 Conclusion

This submission demonstrates that the documentation prepared in support of this request comprehensively addresses the reason for refusal of the original application. Having given due consideration to the relevant matters pursuant to section 4.15(1) of the Act it has been demonstrated that the proposed development, as amended, succeeds on merit and is appropriate for the granting of consent.

Upon approval of this request the current Land and Environment Court proceedings will be discontinued.

Please do not hesitate to contact me to discuss any aspect of this submission.

Yours sincerely

Boston Blyth Fleming Pty Limited

A handwritten signature in black ink, appearing to read 'Greg Boston', with a stylized flourish at the end.

Greg Boston

B Urb & Reg Plan (UNE) MPIO

Director