

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1172
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 42 DP 4689, 54 Bardo Road NEWPORT NSW 2106
Proposed Development:	Demolition works and construction of a seniors housing development to accommodate six units including associated car parking and landscape works
Zoning:	R2 Low Density Residential
Development Permissible:	Yes, under SEPP (Housing for Seniors or People with a Disability) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	BPG Holdings (No. 5) Pty Ltd
Applicant:	BPG Holdings (No. 5) Pty Ltd

Application Lodged:	26/10/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	30/10/2020 to 13/11/2020
Advertised:	30/10/2020
Submissions Received:	14
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 3,239,751.00
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EXECUTIVE SUMMARY

Development Application (DA2020/1172) has been made for demolition works and construction of a one-two storey development containing 2 buildings, with a total of 6 self-contained dwellings pursuant to State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004. The development includes basement car parking for 8 vehicles. The works also include removal of 8 native trees and construction of new vehicular access.

Public exhibition of the development resulted in 14 submissions objecting to the proposal and raising concerns relating to impact on trees, traffic, safety, impact on character, non-compliance with planning controls and non-compliance with SEPP HSPD.

The subject site is zoned R2 Low Density Residential under the Pittwater Local Environmental Plan 2014 (PLEP 2014). Development for the purposes of seniors housing is prohibited with the zone. The application has been lodged pursuant to SEPP HSPD.

Despite amendments made to the application, Council's Landscape officer and Biodiversity officer are not satisfied that the information addresses issues (particularly in regard to tree retention and environmental impact).

The assessment of the application has found that the proposal in its current form cannot be supported as it fails to satisfy the requirements of both SEPP HSPD in terms of Clause 29 and Clause 50 and P21 DCP including Landscaping, Biodiversity and character.

Accordingly, the application is referred to the NBLPP with a recommendation for refusal to the Panel.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for demolition of existing structures and the construction of 6 seniors housing units with 8 car parking spaces. The development is split in to two separate modules with a two storey structure (with basement) at the front, and a single storey (with basement) at the rear. In detail, this includes the following:

Basement

- Car parking
- Storage
- Service areas
- Lifts

Ground Floor

- 2 units in the front building (a two bedroom unit and a three bedroom unit)
- 2 units in the rear building (a two bedroom unit and a three bedroom unit)

First Floor

- 2 units in the front building (a two bedroom unit and a three bedroom unit)

External

- Outdoor common space
- Bin storage
- Tree removal
- Landscaping
- Vehicular access and a waiting bay
- Stormwater system with OSD

Amended Plans

Amended plans were registered on 19 March 2021. These plans did not require re-notification in accordance with the Community Participation Plan. These plans included amendments to the basement layout and setbacks to provide greater opportunity for trees to be retained.

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

Pittwater 21 Development Control Plan - B5.7 Stormwater Management - On-Site Stormwater Detention

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.21 Seniors Housing

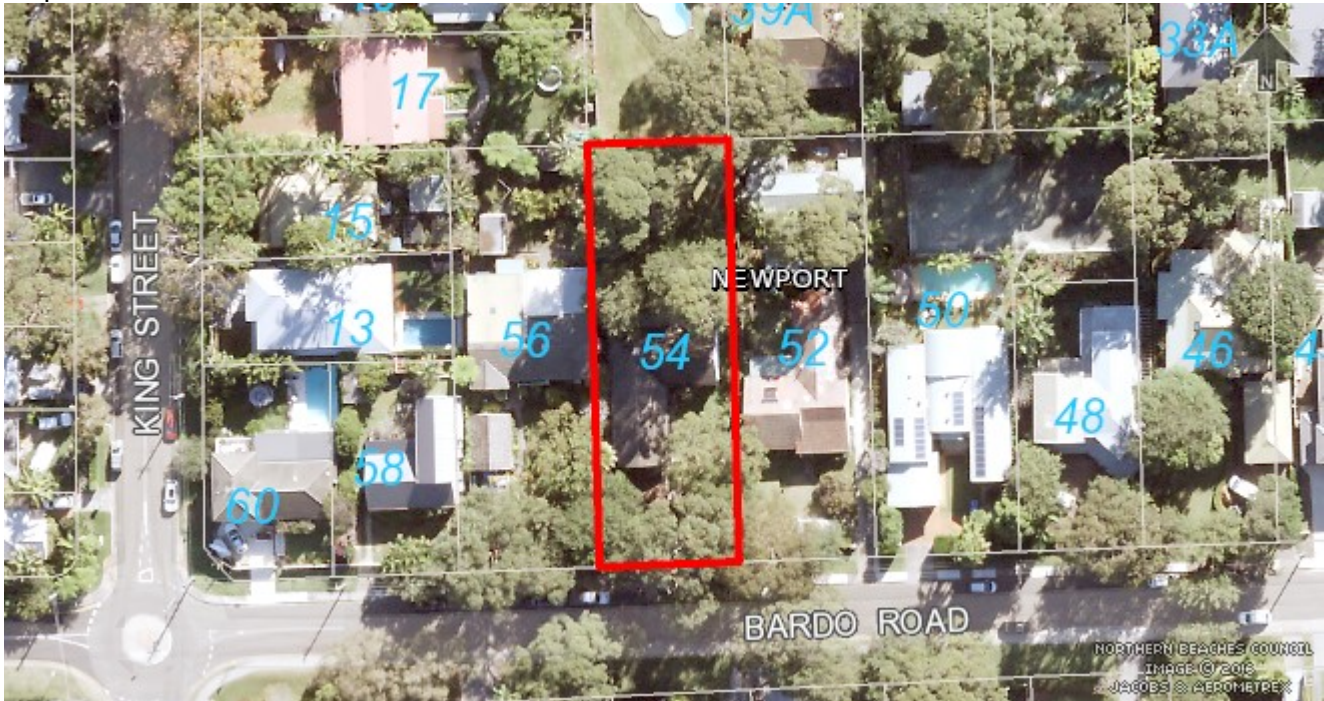
Pittwater 21 Development Control Plan - D10.8 Side and rear building line (excluding Newport Commercial Centre)

SITE DESCRIPTION

Property Description:	Lot 42 DP 4689 , 54 Bardo Road NEWPORT NSW 2106
Detailed Site Description:	<p>The subject site consists of an allotment located on the northern side of Bardo Road.</p> <p>The site is regular in shape with a frontage of 20.11m along Bardo Road and a depth of 60.96m. The site has a surveyed area of 1226.3m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates dwelling house on the site.</p> <p>The site is relatively flat and contains relatively dense vegetation at the front and the rear.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by</p>

a mix of dwellings, residential flat buildings and multi-dwelling housing.

Map:



SITE HISTORY

Pre-lodgement meeting (PLM2020/0170)

A Pre-lodgement meeting was held on 13 August 2020 to discuss a proposal for "Construction of a Seniors Living development".

The following summary comment was provided on the plans which were dated 29 July 2020:

"The proposal is not acceptable and requires redesign prior to submission. Refinements to the building design must be made to ensure compliance with front setback, visual bulk and landscaping requirements. The proposed bin storage facility is required to be relocated to ensure compliance with Council's Waste Management Guidelines, and driveway redesign is required to accommodate a passing bay. It is strongly recommended that the overall scale and extent of the development be substantially reduced to address the issues identified throughout these notes."

In response to this, a reduction to the overall bulk and scale (including reduction to FSR) was made as part of the development application. The waste storage area was also relocated in accordance with advice from Council's Waste officer. However, a satisfactory design to address issues raised by the Landscape officer, Development engineer and Biodiversity officer has not been provided.

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) –	See discussion on "Environmental Planning Instruments" in this

Section 4.15 Matters for Consideration'	Comments
Provisions of any environmental planning instrument	report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 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&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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted. / This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&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) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The suitability of the site in terms of likely impacts on the environment and character has been discussed in detail in the various section of this report. In summary, the suitability of the site for the development as proposed in its current form remains uncertain, due to fact that the proposal has not fully addressed the environmental impacts of the proposed development.</p> <p>In this regard, under the circumstances, the site is not considered to be suitable for this particular form and scale of development, given</p>

Section 4.15 Matters for Consideration'	Comments
	<p>that Council's Landscape Team do not support the proposal due to the environmental impacts caused on high retention value trees.</p> <p>Therefore, a conclusive determination that the site is suitable cannot be made at this stage.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>The provision of Seniors housing in the locality is generally in the broader public interest. However, this assessment has found the proposal to be contrary to the relevant requirement(s) of the P21 DCP and SEPP HSPD and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the localised public interest.</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 from 30/10/2020 to 13/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 14 submission/s from:

Name:	Address:
Mr Scott William Ross Beggs	7 Princes Street NEWPORT NSW 2106
Mr Cameron Christopher Bryant	58 Bardo Road NEWPORT NSW 2106
Mr Roger Taylor Russell	52 Bardo Road NEWPORT NSW 2106
Mr Paul Stuart Harrison	50 Bardo Road NEWPORT NSW 2106
Mr Christopher Keith Brown	5 / 30 - 32 Bardo Road NEWPORT NSW 2106
Katherine Clarke	63 Palmgrove Road AVALON BEACH NSW 2107
Mr Lindsay Wellings	6 / 30 - 32 Bardo Road NEWPORT NSW 2106
Newport Residents Association	PO Box 1180 NEWPORT BEACH NSW 2106
Lauren Montague Mr Timothy Andrew	60 Bardo Road NEWPORT NSW 2106

Name:	Address:
Montague	
Mr Barry Peter Best	19 Brown Street FORESTVILLE NSW 2087
Ms Megan Katharine Kennedy	PO Box 179 NEWPORT BEACH NSW 2106
Mrs Stephanie Gai Brown	46 Bardo Road NEWPORT NSW 2106
Ms Eliza Jane Bryant	43 Bardo Road NEWPORT NSW 2106
Bardo Road Kindergarten	41 Bardo Road NEWPORT NSW 2106

The matters raised within the submissions are addressed as follows:

- Environmental impact, impact on biodiversity, impact of trees, and lack of appropriate landscaping.**
Comment:
Council's Landscape and Biodiversity Officer's have provided that the footprint of the building and design of the development does not provide for appropriate protection of existing trees, and has an unreasonable environmental impact. As such, there are recommended reasons of refusal are provided for these issues.
- Location and accessibility**
Comment:
An assessment under the SEPP HSPD in this report has found that the site is in an appropriate location with adequate access to bus stops (within 400m) and services.
- Amenity impact (including privacy loss, solar access loss and overshadowing); request for privacy screening and high sill windows**
Comment:
The compliant building height, articulation of the built form, and adequate physical separation between the building and neighbouring properties, provides a circumstance in which amenity impact is generally well mitigated. If the development were to be approved, conditions could be imposed for screening and window sill heights.
- Inappropriate character, lack of scenic protection, overbearing bulk and scale, and overdevelopment; Inappropriate building configuration and excessive extent of building footprint**
Comment:
The proposal provides a reasonable outcome for the built form on site due to sufficient articulation, and appropriate physical separation (from the street and neighbours). However, the proposal does not provide an appropriate integration of natural features with the built form shown by the concern raised by Council's Landscape and Biodiversity officer in regard to long term retention of the trees, and environmental impact.
- Non-compliance with planning controls and SEPP requirements**
Comment:
An assessment in this report is made against non-compliance to relevant planning controls and SEPP requirements. The proposed built form is generally acceptable in terms of visual presentation and amenity impact. However, variation to some controls such as landscaping and

character, is not acceptable for reasons outlined in this report.

- **A list of recommended conditions has been provided**

Comment:

Various conditions have been recommended including for various stages of the development (Construction Certificate, Occupation Certificate, during works and operations). These conditions include requests for engineering details, control on waste, arborist details, control on amenity, traffic control and other environmental impact mitigation measures. Conditions of this nature for control on environmental impact would be imposed.

- **Precedent**

Comment:

An assessment under C1.21 of the Pittwater DCP has found that the proposal would have a cumulative impact that is unreasonable due to impact on trees on site. This impact on trees would provide an undesirable outcome for landscaping in the area.

- **Urban Design; DSAP issues are not resolved**

Comment:

Council's Urban design officer does not have any objection to the development. It is agreed that the issues raised by DSAP have not been fully addressed. In particular, the panel raised concern with the extent of the building footprint and associated impact on Landscaping. Amendments to the design provided a reduction but this was not sufficient to alleviate concerns raised by Council's Landscape officer and Council's biodiversity officer.

- **A more skillful design could be provided**

Comment:

It is agreed that a more skillful design could be provided to alleviate concerns raised by Council's Landscape officer and Council's Biodiversity officer.

- **Area should be rezoned**

Comment:

This is not a submission that can be considered in the assessment of a single Development Application. Submissions in regard to zoning should be addressed to Council's Strategic Planning team at council@northernbeaches.nsw.gov.au

- **Traffic and Safety**

Comment:

Council's Traffic officer provides support for the development subject to conditions. Further conditions could be imposed for traffic and safety should the application be approved.

- **Bin location inadequate**

Comment:

The location of the bin storage area at the front of the site is supported by Council's Waste officer. The location of a bin storage area within a basement provides an unacceptable outcome for access for this type of development.

- **Trees previously cut down illegally**

Comment:

A site visit and search of Council's mapping did not reveal any evidence of illegal tree removal.

However, any evidence can be forwarded to council's Compliance team at council@northernbeaches.nsw.gov.au.

- **Lack of notification sign**

Comment:

A statutory declaration has been provided to state that the notification sign was in place during the notification period.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>APPROVAL - Subject to Conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>REFUSAL</p> <p>This application is for the demolition of an existing residential dwelling, and the construction of a seniors housing development comprising of six total units.</p> <p>Amended Proposal:</p> <p>Amended plans and reports have been issued including architectural and landscape plans and a root investigation report.</p> <p>The amended application proposes the retention of existing trees numbered 4 (Grey Gum), 7 (Turpentine), and 8 (Turpentine) within the front setback.</p> <p>The amended application also proposes the retention of existing trees numbered 12 (Swamp Mahogany) and 13 (Turpentine) within the central-rear courtyard area. The previously proposed retention of existing tree numbered 11 (Turpentine) is reported to be unfeasible based on a suppressed canopy from existing trees numbered 12 and 13. Additionally, based on the extent of basement excavation in proximity to tree 11 and the impact to future growth of existing trees 12 and 13, the recommendation for removal of remove tree 11 is accepted, should be the application be approved in its current form.</p> <p>Landscape Officer comments:</p> <p><u>General comments</u></p>

Internal Referral Body	Comments
	<p>Following review of the amended plans and reports, the Landscape officer is of the opinion that three (3) existing native trees can be preserved for the long term to achieve root, trunk and canopy growth typical of the species. The site contains eight (8) existing native trees reported with high retention value in the arboricultural impact assessment by Tree Survey.</p> <p>The loss of five (5) existing trees of high retention value can't be replaced by this proposal due to insufficient deep soil zones and landscape area remaining capable of allowing tree replacement.</p> <p>The available Landscaped Area within the site retains three (3) existing trees and otherwise landscaped areas are limited to the following landscape treatments:</p> <ul style="list-style-type: none"> • rear setback: small trees capable of attaining 5 to 10 metres in height and this treatment is acceptable, • side boundaries: tall shrub planting to 3 metres in height at maturity along the full extent of the side boundaries and small tree planting adjoining 56 Bardo Rd to the frontage portion of the site is proposed, • should a 2 metre wide side setback be acceptable based on planning merit, the side boundaries shall contain no encroachments upon the 2 metre wide Landscaped Area where at-ground structures / pavements are proposed such that the area is solely utilised for planting and maintenance access over natural ground, to allow for appropriate soil area for the nominated planting to achieve the heights of the selected species to provide privacy. To this extent all paving slabs within the 2 metre zone are to be deleted, and the basement walling adjacent to the property at 56 Bardo Rd is to be redesigned, • the elevated walkway along the side setback zone to the northern boundary adjacent property 52 Bardo Rd does not impact natural ground landscape area width and is supported. <p>A review of the stormwater design for impact to existing trees provides no issues for resolution, subject to the supervision of all excavation works near existing trees to be supervised by a qualified arborist.</p> <p><u>Existing tree numbered 4</u></p> <p>The retention of existing tree 4 (Grey Gum) is acceptable based on the amended plans and subject to the following requirements:</p> <ul style="list-style-type: none"> • existing ground levels must be retained, • front lawn to be deleted to reduce compaction impacts from use, and replaced with mass planted garden bed, • front fence shall be installed on isolate pier footings located by a qualified arborist, • walkway and letterbox to be an elevated structure with isolated pier footings located by a qualified arborist, and • G01 apartment terrace to be a suspended slab above natural ground, with isolated pier footings located by a qualified arborist. <p><u>Existing tree numbered 7</u></p>

Internal Referral Body	Comments
	<p>The reported capability to retain existing tree 7 (Turpentine) is assessed as a concern regarding the viable retention in the long term. It is acknowledged there is an existing concrete driveway beside this tree, however the new alignment closer to tree 7 will require excavation within the structural root zone.</p> <p>In the vicinity of tree 7, the architectural plans show the proposed driveway at a RL 14.39 with a 1:8 transition toward the street for 2000mm, equating to a finished RL 14.14. The existing levels as shown on the survey in close proximity to tree 7 are existing 14.37 and existing 14.77, thus the proposed driveway is lower and therefore requiring excavation for construction of the concrete slab.</p> <p>This reduced level is expected to result in the excavation below the current driveway where existing roots are anticipated to be close to the underside of the driveway surface, searching for moisture. Therefore, the total surface area exposed to excavation with the structural root zone and tree protection zone is a significant area. No information is provided on impacts to tree stability from this excavation below existing ground levels required to form and construct the proposed driveway.</p> <p>Such impact to the existing roots system does not provide any surety that existing tree 7 is able to be retained in the long term within such encroachment into the structural root zone and tree protection zone, and it is envisaged that tree 7 will decline eventually and require removal.</p> <p>Removal of tree 7 can't be compensated elsewhere on site as no sufficient natural ground is provided to support a canopy tree such as this.</p> <p>Council do not accept that existing tree 7 can be preserved, typical of the species form and health for the long term.</p> <p><u>Existing tree numbered 8</u></p> <p>Existing tree 8 (Turpentine) currently shows good vitality with an elevated canopy form. A root investigation (trench 1) was located approximately 2 metres from the trunk towards the basement alignment, but not along the basement alignment as suggested to be undertaken. The basement alignment is 4.2 metres from the tree 8 trunk.</p> <p>Eight (8) existing major tree stability roots belonging to tree 8 with diameter 50mm and over have been reported as follows: Root No 3 (60mm), No 5 (50mm), No 6 (120mm), No 7 (80mm), No 8 (120mm), No 9 (120mm), No 13 (80mm), and No 18 (70mm). It is expected that at the basement alignment these diameters may be reduced but will not vary greatly.</p>

Internal Referral Body	Comments
	<p>It is considered that this amount of existing tree roots to be severed within the SRZ is excessive and will most likely impact the tree's health. The impact to these roots is not discussed in the report under the title Discussion on Root Mapping should these roots be severed, but rather the discussion is that the roots at this distance would have tapered to less than 10mm. There is no evidence of this and this suggestion is not accepted, and the true extent of impact is not determined.</p> <p>The amended architectural plans with elevated walkway and the suspended terrace for apartment G01 above natural ground will assist with future root expansion, based on the selection of isolated pier footing by a qualified arborist, and based on appropriate air gap dimension between natural ground and the underside of the terrace slab, however this information is not provided.</p> <p>Of concern with this proposal is the distance separation to a dwelling that, regardless of any conditions of consent to retain a tree, will result in resident demands for pruning and or removal due to damage to property and persons. Should such a request be approved there is no opportunity for replacement tree planting elsewhere on site as no adequate natural ground area is provided to support a canopy tree such as this.</p> <p>Council do not accept that existing tree 8 can be preserved, typical of the species form and health for the long term.</p> <p><u>Existing trees numbered 12 and 13</u></p> <p>Existing trees 11, 13 and 15 (Turpentine) and existing tree 12 (Swamp Mahogany) are a clump of trees behind the existing building.</p> <p>Tree 11, 14 and 15 have suppressed form as a consequence of suppression by the dominant trees 12 and 13, and the recommendations for removal is accepted.</p> <p>It is noted that the proposed distance between the basement alignment and the structural root zone is between 4200mm and 5930mm and clear of the structural root zone, even when over excavation for waterproofing and drainage provision are considered.</p> <p>Additionally, based on the extent of basement excavation in proximity to tree 11 and the impact to future growth of existing trees 12 and 13, the recommendation for removal of remove tree 11 is accepted, should be the application be approved in its current form.</p> <p>A root investigation (trench 2) was located on the east side of Trees 11, 13, 14, and 15 at a distance of 1.8m centre line of Tree 13, without obviously determining which tree the roots belong to.</p> <p>Ten (10) existing major tree stability roots belonging to tree 8 with diameter 50mm and over have been reported as follows: Root No 2</p>

Internal Referral Body	Comments
	<p>(70mm), No 8 (110mm), No 10 (50mm), No 11 (60mm), No 14 (50mm), No 15 (40mm), No 19 (160mm), No 20 (150mm), No 21 (160mm), and No 23 (150mm). It is expected that at the basement alignment these diameters may be reduced but will not vary greatly.</p> <p>Across the existing trees the subject of the root investigations, the quantity of tree stability roots to be severed per tree is minimal, and given the amount of natural ground to be retained for tree root regrowth, the findings of the tree root investigation that the pruning of these roots will not have a long term impact on the tree's stability and longevity is accepted, subject to the following requirements:</p> <ul style="list-style-type: none"> • existing ground levels must be retained, • walkway to units are to be elevated above the natural ground level and shall be installed on isolated pier footings located by a qualified arborist, and • automatic irrigation is installed and managed by a qualified arborist for a period as advised. <p>Landscape Referral are unable to support the application at this stage based on the above discussions and concerns. End.</p> <p>Previous Officer comments:</p> <p>Councils Landscape Referral section has considered the application against the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the Pittwater Local Environment Plan, and the following Pittwater 21 DCP controls:</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation • C1.1 Landscaping • C1.21 Seniors Housing • D10.12 Landscaped Area - General <p>A Landscape Plan has been provided and proposed works include in ground planting of trees, shrubs, grasses and groundcovers, as well as on-slab planting of shrubs, grasses and groundcovers.</p> <p>The Statement of Environmental Effects and Arboricultural Impact Assessment provided with the application note that a total of seventeen trees are identified on site. It is noted that two of those seventeen trees are located on an adjoining property, and shall not be impacted under any circumstances.</p> <p>The Arboricultural Impact Assessment notes that a total of eight trees are to be removed due to the proposed works. Of these eight trees to be removed, two trees are exotic, with the remaining six trees being native. Majority of the tree removal will occur at the front of the property, with a total of five trees being removed as a result of existing trees being within the footprint of proposed works. The remaining</p>

Internal Referral Body	Comments
	<p>three trees are located towards the rear of the property and also are located within the footprint of proposed works and have subsequently been allocated for removal.</p> <p>Four trees, specifically Trees No. 1, 6, 14 and 15 are all deemed to have low tree significance and low priority for retention, as stated in the Arboricultural Impact Assessment. The remaining four trees to be removed, specifically Trees No. 5, 7, 8, and 9 are all native and significant canopy trees, with both a high tree significance and a high priority for removal. At minimum, four large canopy trees shall be proposed to compensate the loss of these significant trees.</p> <p>The Arboricultural Impact Assessment also indicates that of the seven trees to be retained (not including those on adjoining properties), three trees have no encroachment on the Tree Protection Zone (TPZ). These trees include Trees No. 2, 3 and 10. Of the remaining four trees to be retained, all have a major encroachment on the TPZ, ranging from 22% to 48% encroachment.</p> <p>Tree No. 4 is located at the front of the property, with proposed work encroaching on the TPZ by 22%. With appropriate mitigation measures as stated in the Arboricultural Impact Assessment, it is likely this tree shall survive and the proposed works are seen to have a negligible impact on TPZ and Structural Root Zones (SRZ). Trees No. 11, 12 and 13 are located centrally to the site, and are proposed to form part of a communal lawn area, each with a 48%, 22% and 45% TPZ encroachment respectively. With appropriate mitigation measures as stated in the Arboricultural Impact Assessment, as well as further design modifications such as greater basement floor setback, suspended slabs where the ground floor extends into the TPZ of effected trees, as well as tree-sensitive pathways, it is still likely these trees may fail as a result of the scale of works. A tree root investigation and tree root map is needed in order to fully comprehend the extent of works and to make a sound judgement, in accordance with AS4970-2009 Clause 3.3.3 - Major Encroachment.</p> <p>Due to the scale of tree loss, and the possible further loss of trees during construction, control B4.22 cannot be satisfied as the scenic value and character that the trees provide is not retained and protected.</p> <p>In its current design, the front setback to Bardo Road is inadequate to support the planting of trees to soften the built form. This is partly due to the presence of the bin storage, entry paving and walkways, walling and services, but also due to the loss of trees resulting from the proposed driveway positioning. A key component of controls C1.1, C1.21 and D10.12 is that landscape shall help mitigate and reduce the bulk and scale of the built form. Clause 33 (c-i) of the SEPP also indicates that sufficient building setbacks shall be provided to reduce the bulk and overshadowing of the built form. As a result of this tree removal and lack of adequate space to plant new canopy trees, these controls and clauses cannot be satisfied.</p>

Internal Referral Body	Comments
	<p>In summary, the application documents do not provide sufficient satisfaction of development controls and clauses outlined in the Pittwater DCP and Housing for Seniors SEPP. The proposed development intends to remove, and potentially damage a large number of significant canopy trees with high retention values, with limited compensation planting to replace those lost. The built form has also not been reduced satisfactorily due to tree removal in the front setback, but also the presence of structures in within the front setback which has reduced the ability for canopy tree planting. For this reason, the landscape component of this proposal is not accepted.</p>
NECC (Bushland and Biodiversity)	<p>REFUSAL</p> <p><u>Revised Comments</u></p> <p>Amended plans and reports have been issued including architectural and landscape plans and a root investigation report. The amended application proposes the retention of existing trees numbered 4 (Grey Gum), 7 (Turpentine), and 8 (Turpentine) within the front setback. The amended application also proposes the continued retention of existing trees numbered 12 (Swamp Mahogany) and 13 (Turpentine), although tree 11 (Turpentine) is now recommended for removal.</p> <p>The Council Landscape Referral has:-</p> <ul style="list-style-type: none"> • accepted the recommendation for removal of remove tree 11. • agreed that three (3) existing native trees can be preserved for the long term, and • five (5) existing trees of high retention value can't be replaced due to insufficient deep soil zones and landscape area remaining capable of allowing tree replacement. <p>As per the original assessment, the site is mapped as part of a terrestrial biodiversity area and is located within a wildlife corridor (high priority). The aims and objectives of Pittwater LEP 2014 cl.7.6 Biodiversity and P21 DCP B4.6 Wildlife Corridors are therefore relevant to the assessment. The development should be designed, sited and managed to avoid, minimise or appropriately manage any adverse environmental impact, and demonstrate the retention and enhancement of wildlife corridors ensuring/providing the connection of flora and fauna habitats.</p> <p>While the amended design results in some reduction in impacts to biodiversity values of the site, and with reference to the Landscape Referral, the previous comments are still applicable. Specifically the development should not directly impact or reduce habitat for locally native species, not result in a net loss in native canopy trees, and ensure that at least 60% of any new planting incorporates native vegetation (recommended species list contained within Appendix A of the Biodiversity Management Plan Narla October 2020).</p>

Internal Referral Body	Comments
	<p>Based on the information provided I am not satisfied that the development is designed, sited and will be managed to avoid, minimise or appropriately manage any adverse environmental impact.</p> <p><u>Original Comments</u> The proposed development has been assessed against Pittwater LEP 2014 cl.7.6 Biodiversity and P21 DCP B4.6 Wildlife Corridors. The site is mapped as part of a Terrestrial Biodiversity area and is located within a wildlife corridor (high priority), and therefore the development is to be amended to satisfy the objective to provide wildlife corridors via creation, restoration, and / or regeneration. The proposal is to address the relevant controls, ensuring no net loss in native canopy trees.</p> <p>The Flora and Fauna Assessment has mapped 510 m2 of the site as native vegetation, albeit dominated by canopy species with sparse shrub and ground layer. While the report states that the development proposal will not significantly impact on threatened biodiversity or their habitats, the current design will directly remove more than 50% of the area mapped as native vegetation. The report has not specifically addressed the Wildlife Corridor DCP control, and should review the impacts of the proposal on the corridor, and should recommend additional impact minimisation and mitigation measures. The additional loss of trees 11 - 13 has been assumed based on the current design and the Landscape referral assessment.</p> <p>As identified within the Landscape Referral response, impacts of the development on trees, including trees proposed to be retained (trees 11-13), and the landscape treatment proposed is insufficient. The development is to ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plant Species Guide available on the Council website and the species list contained within the Biodiversity Management Plan Narla Environmental Oct 2020), not include environmental weeds, and maximise linkages of the wildlife corridor. The Landscape Plan proposes replacement planting dominated by one native <i>Eleocarpus</i> species, with only one large Angophora tree and two medium sized Banksia species. Additional replacement plantings of larger canopy trees and additional canopy species diversity is recommended.</p> <p>Based on the information provided I am not satisfied that the development is designed, sited and will be managed to avoid, minimise or appropriately manage any adverse environmental impact.</p>
NECC (Development Engineering)	<p>REFUSAL - Insufficient Information</p> <p>Comments 24/3/2021 The recently submitted drainage plans have not been amended to address the previous comments ie the location of the OSD/rainwater tank be relocated from below the habitable floor or an intermediate slab within the OSD Tank is to be created to</p>

Internal Referral Body	Comments
	<p>feature an air void and separation between the Detention /Rainwater tank and the habitable slab above.</p> <p>Previous comments The stormwater drainage plans have been reviewed and the location of the stormwater detention tank is not supported as its partly located under a habitable area . The tank therefore is to be relocated or incorporate a air void between the top of the tank and underside of the habitable floor slab.</p>
Strategic and Place Planning (Urban Design)	<p>APPROVAL - Subject to Conditions</p> <p>The proposal has addressed the Urban Design Comments brought up in the Pre-lodgement Meeting:</p> <ol style="list-style-type: none"> 1. Generally the proposal is an over-development in terms of bulk and scale comprising of six generously sized three-bedroom units. The proposed FSR of 0.617:1 is over the 0.5:1 control. Considering the 1200sqm site area is just over 200 sqm over the minimum requirement of 1000sqm, the 0.5:1 FSR should not be exceeded. Response: The proposed FSR has been reduced to 0.569:1 and the overall bulk and scale of the built form has been reduced. 2. The front setback of 6.5m should be complied with strictly ie. no balcony encroachment as proposed. The front elevation treatment of long linear balconies should be broken up to make it fit contextually with the free-standing houses in the neighbourhood. Response: The proposal has complied with the front setback and the street elevation fits well contextually. 3. The middle courtyard introduced to keep some existing trees is a good way to separate the two built forms proposed but it would be ideal if the narrow section of 4.12m can be increased to 6m. The Private Open Space (POS) of unit G02 would also benefit from that. The entrance to unit G03 should be moved to the existing trees side of the courtyard to give more privacy to the POS of unit G02. Response: The proposal has incorporated all the suggested recommendations. 4. The landscape area of 31.8% (30% min.) site area should be increased to preserve the amenity to the next door neighbours by providing more landscape buffer. More articulation of the building façade especially on the rear west boundary should help to break up the 1.5m long linear landscape strip proposed with some wider spaces (3m min.) for decent canopy trees to be planted. Response: The proposed landscape area has been increased to 36.7% with width of 2m minimum introduced. 5. The rear excavation of the proposed basement carpark is excessive being about 6m deep. Excavation should be kept to a minimum to allow more deep soil area for perimeter trees.

Internal Referral Body	Comments
	<p>Response: The proposed rear excavation has been reduced to about 4.5m deep.</p> <p>6. Privacy screens should be incorporated into the upper balconies to minimise overlooking issues into the surrounding properties. Response: Privacy issues have been addressed.</p> <p>7. The proposal should look at reducing the bulk and scale especially the full double storey front building proposed with treatment of single storey elements to fit contextually with the character of the surrounding free-standing single and double storey houses. Response: The proposal has maintained a single storey built form for about 45% of the rear portion of the site to cater for the canopies of the existing trees retained.</p> <p>8. The built forms proposed should incorporate a great degree of building separation and articulation in order to achieve a character and design which is complementary and compatible to the adjoining residential development of free-standing houses located in a verdant area. Response: The separation distance between the single and double storey blocks has been increased and the building facades of the double storey block are better articulated.</p>
Traffic Engineer	<p>APPROVAL - Subject to conditions</p> <p>The proposal is for the demolition of an existing dwelling house and construction of 6 seniors liveing units:</p> <p>Parking: The proposed provision of 8 parking spaces satisfies the parking requirements.</p> <p>Traffic Impact: The proposal is projected to generate 4 peak hour vehicle strips. This is considered to have minimal impact on the surrounding road network and is acceptable.</p> <p>Driveway and car park design: No concerns is raised on the proposed car park and driveway design. The compliance with Australian Standards AS2890.1:2004 is required.</p> <p>Access to public transport: There are existing footpath connecting the site to the nearest bus stops. However to provide a convenient and safe access for seniors and people with disabilities, the provision of a pedestrian crossing facility on Bardo Road will be required. Also, the designated bus stops are to be upgraded to DDA compliant bus stops.</p> <p>Conclusion: The proposal is supported subject to conditions.</p>
Waste Officer	APPROVAL - Subject to Conditions

Internal Referral Body	Comments
	<p>The proposal complies with the requirements contained within the Waste Management Design Guidelines.</p> <p><u>Amended Plans</u></p> <p>The bin room configuration has changed slightly but still complies with Council's requirements.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations would be included as a condition of consent if the application was approved.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1130450M).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41

Thermal Comfort	Pass	Pass
Energy	45	45

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Housing for Seniors or People with a Disability) 2004

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for (6) self contained seniors housing apartments.

Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) make efficient use of existing infrastructure and services, and
- (c) be of good design.

Comment: The proposed development is consistent with aim (a) of the Policy as the development for Seniors Housing will provide an increase supply of accommodation to meet the needs of seniors or people with a disability.

In relation to (b), the proposal provides efficient use of existing infrastructure and services as access is provided to and from the site via footpaths and close proximity to bus stops.

In relation to (c), the proposal involves a good design with respect to the provisions of local policies and the the SEPP HSPD in terms of the stepping and articulation of the built form, considerations of access, internal amenity and amenity impacts. However, the proposal does not provide a suitable design in terms of integration of natural features with the built form or suitable design for biodiversity or suitable stormwater design. In particular, Council's Landscape officer is not satisfied as to the retention of trees, Council's Biodiversity officer is not satisfied that the design minimises environmental impact, and Council's Engineer is not satisfied Stormwater design.

Chapter 2 – Key Concepts

Comment: The proposed development is consistent with the key concepts contained within SEPP (HSPD). The development comprises self-contained dwellings which are to be occupied by seniors or people with a disability. On this basis, the proposed development is considered consistent with Chapter 2 of SEPP (HSPD).

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The proposal provides appropriate access to the provisions through bus access which complies with the requirements under Clause 26(2), being within close proximity to bus stops and the Newport shopping centre.	Yes.
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	The proposal is within 400m of two bus stops on Gladstone Street.	Yes.
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	N/A	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Reticulated water and sewerage infrastructure is presently available to the site. The proposed seniors housing development is capable of connecting to a reticulated water system, in accordance with the provisions of Clause 28.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25 (5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v): i) the natural environment and the existing uses and	The development is antipathetic to the requirements contained within Clause 25 (5) for the following reasons: i) The site is located within a low density residential area where there is a mix of historical building forms including detached dwellings, other residential development. There site is also in relatively close proximity to the Newport shopping area. Notwithstanding this, the site and the adjoining properties are screened and surrounded by natural features. The proposal	No

Development Criteria			
Clause	Requirement	Proposal	Complies
	<p>approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>does not provide proper consideration through building design for the future retention and enhancement of environmental features to maintain this established natural character.</p> <p>iii) The Applicant has provided an Access Report to support the proposal and Council's Traffic officer supports the application subject to conditions.</p> <p>v) The proposed development includes 6 apartments constituting a total of 15 bedrooms and basement parking structure for 8 vehicles. The proposed bulk and scale of the development reasonable given the and substantial stepping, modulation, and articulation of building bulk. However, the proposal does not provide an appropriate response to surrounding character due to the lack of an appropriate design for tree retention, and design to reduce overall environmental impact.</p>	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A Site Analysis Plan and Statement of Environmental Effects submitted with the application satisfactorily address the requirements of this clause.	Yes.

Clause 31 Design of in-fill self-care housing

Pursuant to Clause 31 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that</p>	<p>The Desired Character for the Newport locality is identified as:</p> <p><i>"The Newport locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. "</i></p>

Section	Requirements	Comment
	contribute to its unique character.	Given Council's Landscape officer cannot confirm suitable retention of the trees at the front of the site, and Council's Biodiversity officer cannot support overall environmental impact (with loss of trees), the proposed development does not sufficiently integrate into the landscaped setting.
2. Site Planning and design	Objectives of this section are to: -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	The proposed development does not minimise the impact on the neighbourhood character which integrates substantial vegetation and built form. The undeveloped sections of the site provide limited potential to support existing trees on site.
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape.	As identified above, the development does not provide a sympathetic presentation to the street or integration with the landform in a landscaped setting due to impact on trees provided by Council's Landscape officer.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	Subject to conditions including privacy screening, the proposal provides a sufficient design including physical separation and articulation of the built form to ensure there would be no unreasonable amenity impact.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	The site layout provides appropriate and safe access to each unit.

Clause 32 Design of residential development In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new	The Newport Locality statement provides the following identification of character:	Yes.

Control	Requirement	Proposed	Compliance
	<p>buildings contribute to the quality and identity of the area.</p> <p>b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form,</p>	<p><i>"The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes.</i></p> <p><i>Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development."</i></p> <p>The residential areas are of mixed style and architecture, with a commonality being landscaped boundaries and treed frontages.</p> <p>Although the proposed development will maintain a building height limit below the tree canopy and minimise bulk and scale. The impact on vegetation including two trees at the front, and overall tree removal on the site is unacceptable.</p> <p>N/A</p> <p>The proposed development provides articulation at upper levels, and sufficient separation from neighbouring living spaces in order to minimise amenity impact. The built form has a compliant rear setback and steps down to be one storey at the rear. This provides a building height and bulk does not result in any unreasonable amenity impact</p>	<p>N/A</p> <p>Yes.</p>

Control	Requirement	Proposed	Compliance
	<p>and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p> <p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>such as overshadowing. Further, the building heights at the street frontages provide a open presentation (with balconies and private open space) to adequately reduce the presentation of built form in the streetscape.</p> <p>The proposed front setback complies with the control under the Pittwater DCP, and generally respects the established front building line in the street.</p> <p>Council's Landscape officer has provided that the retention of existing trees in the front setback is not tenable. As such, sufficient planting is not provided in the front setback area.</p> <p>The site contains 8 existing native trees reported with high retention value in the arboricultural impact assessment by Tree Survey.</p> <p>The loss of five existing trees of high retention value can't be replaced by this proposal due to insufficient deep soil zones and landscape area remaining capable of allowing tree replacement. This is an unreasonable environmental impact.</p> <p>The site is not within a riparian zone.</p>	<p>Yes.</p> <p>No</p> <p>Yes</p>
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy	The proposed side and rear elevations provide suitable design of openings and appropriate physical	Yes.

Control	Requirement	Proposed	Compliance
	<p>of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>separation from neighbouring properties to ensure overlooking impact would be suitably minimised in these locations, subject to conditions which could be provided for screening and minor modifications to sill heights.</p> <p>A condition may also be applied in regard to the control on noise both during construction and operation.</p>	
<p>CL35 Solar access and design for climate</p>	<p>The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>The solar diagrams submitted with the application indicate that apartments will receive adequate sunlight access for the whole of the year. Further, the sufficient openings are provided to the north of the buildings to take advantage of solar access.</p>	<p>Yes.</p>
<p>CL 36 Stormwater</p>	<p>Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.</p>	<p>Council's Development Engineer has raised concern in relation to the proposed stormwater and OSD design. This is in regard to the OSD being below a habitable floor area.</p>	<p>No.</p>
<p>CL 37 Crime prevention</p>	<p>The proposed development should provide personal property security for residents and visitors and encourage crime</p>	<p>The proposal involves six units with sufficient and separate ground level access. The proposal also involves various openings which provide opportunity for</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>passive surveillance.</p>	
<p>CL 38 Accessibility</p>	<p>The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>The proposed development has demonstrated that compliant access can be provided from the site to the closest public transport links to access essential services. These arrangements are subject to conditions and amendments required by Council's Traffic officer and development engineer.</p>	<p>Yes</p>
<p>CL 39 Waste management</p>	<p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>The proposed waste storage area satisfies requirements of Council's Waste Management Guidelines.</p>	<p>Yes.</p>

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1226.3m	Yes
Site frontage	20 metres	20.115m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	6m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Not more than 2 storeys	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	Rear building is one storey in height	Yes

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the	Continuous path of travel with appropriate gradient provided	Yes.

Control	Required	Proposed	Compliance
	greater.		
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Lighting may be conditioned to ensure compliance with glare and reflection should the application be considered for approval.	Yes (subject to a condition)
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	A condition may be provided to ensure an appropriate location for a letter box.	Yes (subject to a condition)
Private car accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	Each apartment is provided with a space that is readily accessible. Council's Traffic officer is satisfied with the proposal.	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Complies	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Complies	Yes
Bedroom	At least one bedroom within each welling must have:	Complies in accordance with the Access Report	Yes

Control	Required	Proposed	Compliance
	<p>(a) An area sufficient to accommodate a wardrobe and a queen size bed</p> <p>(b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction.</p> <p>(c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.</p>		
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Complies in accordance with the Access Report	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Complies in accordance with the Access Report	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Complies in accordance with the Access Report	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Complies in accordance with the Access Report	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Complies in accordance with the Access Report	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Complies in accordance with the Access Report	Yes
Kitchen	The kitchen must comply with the requirements of Clause	Complies in accordance with the Access Report	Yes

Control	Required	Proposed	Compliance
	16 of Schedule 3		
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Complies in accordance with the Access Report	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	Complies in accordance with the Access Report	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Complies in accordance with the Access Report	Yes
Garbage	A garbage storage area must be provided in an accessible location.	Complies in accordance with the Access Report	Yes

Part 5 Development on land adjoining land zoned primarily for urban purposes
This part is not applicable to the subject site.

Part 6 Development for vertical villages
This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent
Clause 46 Inter relationship of Part with design principles in Part 3
Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings
In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.
The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	6m	Yes
Density and scale	0.5:1	0.569:1	No, given the articulation of the building and sufficient setback, the FSR does not contribute to an unreasonable

Control	Required	Proposed	Compliance
			building bulk. However, it is noted that a FSR which complies with the development standard could provide lesser environmental impact and greater potential for tree retention.
Landscaped area	30% of the site area is to be landscaped	36%	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	15%	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	Complies	Yes
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor,	Complies	Yes

Control	Required	Proposed	Compliance
	and (ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area		
Parking	15 bedrooms proposed – 8 carparking spaces required	8 spaces	Yes
Visitor parking	None required if less than 8 dwellings	None required	Yes

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 who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations would be included as a condition of consent if the application was approved.

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

Detailed Assessment

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.5m (balcony)- 8.7m (building)	N/A	Yes
Rear building line (multi-dwelling housing)	3.5m	6.5m	N/A	Yes
Side building line (multi-dwelling housing)	Front building (east): 4m	3m-3.71m	N/A	No (see comments)
	Front building (west):4m	4m-5.35m	N/A	Yes
	Rear building (east): 3m	2m	N/A	No (see comments)
	Rear Building (west): 3m	2m	N/A	No (see comments)
Building envelope	4.2m	Within	N/A	Yes
	4.2m	Within	N/A	Yes
Landscaped area	50%	36.5% (448m ²)	N/A	No (see comments)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	No	No
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	No	No
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	No	No
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	No
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.21 Seniors Housing	No	No
C1.23 Eaves	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	No	No
D10.11 Building envelope (excluding Newport Commercial Centre)	Yes	Yes
D10.12 Landscaped Area - General	No	No
D10.14 Fences - General	Yes	Yes
D10.16 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B5.7 Stormwater Management - On-Site Stormwater Detention

Council's Development Engineer does not support the location of the OSD below habitable floor area.

C1.1 Landscaping

The proposed landscaping on the site has been assessed by Council's Landscape Architect as unacceptable. In particular, Council's Landscape officer has stated that Tree 7 and Tree 8 cannot be preserved. This provides a situation in which there is not an appropriate retention of existing trees on site, and there is not appropriate opportunity for landscaping and vegetation to soften the built form at the front of the site.

C1.21 Seniors Housing

The proposed development fails to adequately address the outcomes of Part C.21. The specific outcomes of the control include:

- *Visual bulk and scale of development is limited.*
- *Restricted footprint of development on site.*
- *Retention of the natural vegetation and facilitate planting of additional landscaping where possible.*
- *Achieve desired future character of the locality.*
- *Social mix of residents in the neighbourhood.*
- *Minimal cumulative impact from State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.*

Controls

Cumulative Impact

Seniors housing developed in accordance with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, outside the R3 Medium Density Residential and B4 Mixed Use zones shall:

- Be in keeping with the development of the surrounding area in regard to bulk, building height, scale and character.
- Not result in such an accumulation of Seniors Housing developments to create a dominant social type in the surrounding neighbourhood.
- Not result in such an accumulation of Seniors Housing developments to create a dominant 'residential flat building' appearance in the neighbourhood.

In terms of the development's response to the outcomes and controls of this requirement, it is noted that there are number of existing and historical seniors housing developments currently within this streetscape at No. 30-32 Bardo Road (7 dwellings), No, 24-26 Bardo Road (10 dwellings) and No 49 Bardo Road (5 dwellings). A further six dwellings on the subject site does not raise concerns in relation to the cumulative impact of these Seniors housing development within this street. The appearance of this development however, without an appropriate integration of landscaping, raises concern in terms of desired character, and visual bulk and scale.

The proposal does not successfully address the outcomes and controls of this clause and this forms a reason for refusal for the proposed development.

D10.8 Side and rear building line (excluding Newport Commercial Centre)

Description of non-compliance

The proposal does not comply with the control side building line for the front building (4m) at the eastern elevation. In this regard, the proposal involves a side building line 3m-3.7m at the eastern elevation. It is noted that the proposal complies with the setback requirement at the western elevation.

The proposal also involves a building at the rear that provides side setbacks of 2m. This does not comply with the numerical requirement of 3m.

Merit consideration

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

To achieve the desired future character of the Locality.

Comment:

The proposal involves new building at the front of the site that is no more than two storeys at any one point and has articulation of walls at the side elevations. Along with this, the balcony at the front is generally open in nature. The proposed building at the rear of the site provides a compliant rear setback and is single storey. This design ensures that the proposed building would be consistent with the desired low density character within a landscaped setting. This achieve the desired future character of the locality.

The bulk and scale of the built form is minimised.

Comment:

The proposal involves a compliant front and rear building line and a compliant building height. Subject to appropriate landscaping being provided across the site, the reasonable stepping of the built form

down toward the rear provides a bulk and scale in built form that is adequately minimised.

Equitable preservation of views and vistas to and/or from public/private places.

Comment:

The proposal involves new buildings which maintain viewing corridors by providing articulation as well as a compliant front and rear setback.

To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.

Comment:

The proposal maintains open space to the front and rear of the site. This open space is positioned to ensure reasonable access to views through the site.

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.

Comment:

The proposal involves a design that includes adequate modulation of building bulk and physical separation to ensure that there would be no unreasonable impact on amenity. Additionally, the design of openings at the side boundary is adequately minimised to prevent loss of privacy, and a privacy screen is provided to each side elevation of the deck (subject to conditions with minor amendments).

Substantial landscaping, a mature tree canopy and an attractive streetscape.

Comment:

The proposal provides landscaping across the site, however, Council's Landscape officer cannot support the landscaping and tree retention at the front of the site, and Council's Biodiversity cannot support the application due to overall environmental impact.

Flexibility in the siting of buildings and access.

Comment:

In this circumstance, flexibility is warranted for the siting of the the buildings (to not strictly comply with the numerical controls). This is a result of the reasonable presentation of bulk within the area and the lack of amenity impact on neighbouring properties.

Vegetation is retained and enhanced to visually reduce the built form.

Comment:

Council's Landscape officer does not support the proposal due to the lack of ability to retain trees at the front of the site. Council's Bi

To ensure a landscaped buffer between commercial and residential zones is established.

Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant outcomes of the PDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$32,398 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,239,751.

NORTHERN BEACHES SECTION 7.12 CONTRIBUTIONS PLAN 2019

Were the application to be approved, the proposal would be subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

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;
- Pittwater Local Environment Plan;
- Pittwater 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 report provides an assessment of the application for the redevelopment of the site as a seniors housing development containing 6 units.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP (HSPD) 2004, SEPP 55, SEPP (Infrastructure), PLEP 2014, the relevant codes and policies of Council, the relevant provisions of the Pittwater 21 DCP.

Public Exhibition

The public exhibition of the DA resulted in a large response from the community. Objections to the proposed development include concerns relating to impact on trees, traffic, safety, impact on character, non-compliance with planning controls and non-compliance with SEPP HSPD.

The issues raised in the submissions have been addressed in the 'Public Exhibition & Submissions' section of this report.

While it is acknowledged that the Applicant has submitted some amended plans seeking to address the issues raised by Council in its referral comments and issues letter, the amendments were not sufficient to address issue raised by Council's Landscape Officer, Council's Development Engineer and Council's Biodiversity Officer.

The assessment of the application against the provisions of SEPP (HSPD) has identified that the proposal is not satisfactory in relation to a number of the requirements of the SEPP.

Based on the assessment contained in this report, it is recommended that the Northern Beaches Local Planning Panel refuse the application for the reasons detailed within the recommendation of this assessment.

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/1172 for the Demolition works and construction of a seniors housing development to accommodate six units including associated car parking and landscape works on land at Lot 42 DP 4689,54 Bardo Road, NEWPORT, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2014:

Clause 29 Character/Clause 31 Design of in-fill self-care housing/ Clause 32 Design of residential development/ Clause 33 Neighbourhood Amenity and streetscape

The proposal does not sufficiently show the retention of existing trees at the front of the site, and the overall impact on the wildlife corridor is unacceptable.

2. 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 Pittwater

Local Environmental Plan 2014.

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 B4.6 Wildlife Corridors of the Pittwater 21 Development Control Plan.

The overall environmental impact including removal of native species is unacceptable.

4. 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 B5.7 Stormwater Management - On-Site Stormwater Detention of the Pittwater 21 Development Control Plan.

The proposal for OSD below habitable floor area is unacceptable.

5. 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 C1.21 Seniors Housing of the Pittwater 21 Development Control Plan.

There is insufficient information in regard to the landscape plan to show integration of landscaped features with built form to complement character of the area.