

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2023/0868
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<b>Responsible Officer:</b>	Claire Ryan
<b>Land to be developed (Address):</b>	Lot 44 DP 10648, 39 Hay Street COLLAROY NSW 2097 Lot 45 DP 10648, 41 Hay Street COLLAROY NSW 2097 Lot 46 DP 10648, 43 Hay Street COLLAROY NSW 2097 Lot 43 DP 10648, 37 Hay Street COLLAROY NSW 2097
<b>Proposed Development:</b>	Demolition of existing dwellings and construction of a seniors housing development
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	Yes
<b>Owner:</b>	The Happy Bee Honey Company Ltd David Owen Mackenzie Lisa Anne Mackenzie Gai Lynne Shirley Stephens Craig Kenneth Charles Stephens Pretty Prinny Prop Pty Ltd
<b>Applicant:</b>	Daniel Michael McNamara

<b>Application Lodged:</b>	06/07/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	14/07/2023 to 28/07/2023
<b>Advertised:</b>	14/07/2023
<b>Submissions Received:</b>	154
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: Insufficient information; AND Clause 108(2)(c) of the SEPP Housing 2021: FSR 44.6%
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 13,186,380.00
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### EXECUTIVE SUMMARY

This development application seeks consent for demolition of existing dwellings and construction of a seniors housing development.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the proposed variation to the floor space ratio development standard (44.6%) and due to the receipt of 153 submissions.

Critical assessment issues included building bulk, character, setbacks, view sharing, privacy, parking, stormwater management, and water management. The assessment finds that the proposed development is excessive in bulk and scale for the site and locality, resulting in an inconsistency with the character of the R2 Low Density Residential zone, and unreasonable amenity and streetscape impacts.

The 4.6 request for the non-compliance with FSR development standard arises from increased floor space, intending to support additional housing for seniors. The request does not adequately justify that compliance is unreasonable, unnecessary or provide sufficient environmental planning grounds. The excessing floorspace results in unacceptable impacts to surrounding properties. The request for contravention of the development standard is not supported.

This report concludes that the NBLPP should refuse the development application.

The 'deemed refusal' of the application was appealed to the NSW Land and Environment Court on 21 August 2023, 46 days after lodgement of the DA.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks consent for demolition of the four existing dwelling houses (one on each lot) and construction of a seniors housing development, as follows:

- **Basement Level:** Parking for 22 residential cars and 2 visitor cars, mechanical plant, access, and services.
- **Ground Level:** Four single-level 2-bedroom (plus convertible room) seniors housing units, and the lower level of three two-level 3-bedroom (plus convertible room) seniors housing units.
- **First Floor Level:** Four single-level 3-bedroom (plus convertible room) seniors housing units, the upper level of the three two-level units
- **Roof:** Solar panels.
- Landscaping works.
- Double-width driveway.

The 'deemed refusal' of the application was appealed to the NSW Land and Environment Court on 21 August 2023 (46 days after lodgement), before conclusion of Council's preliminary assessment, at which point a request for information would have been provided. In accordance with Court protocol, correspondence with the Applicant was not entered into after the point the appeal was lodged.

## **ASSESSMENT INTRODUCTION**

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

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

## SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
 Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential  
 Warringah Local Environmental Plan 2011 - 4.3 Height of buildings  
 Warringah Local Environmental Plan 2011 - 6.2 Earthworks  
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land  
 Warringah Development Control Plan - A.5 Objectives  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - B9 Rear Boundary Setbacks  
 Warringah Development Control Plan - C3 Parking Facilities  
 Warringah Development Control Plan - C4 Stormwater  
 Warringah Development Control Plan - C9 Waste Management  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - D2 Private Open Space  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy  
 Warringah Development Control Plan - D9 Building Bulk  
 Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 44 DP 10648 , 39 Hay Street COLLAROY NSW 2097 Lot 45 DP 10648 , 41 Hay Street COLLAROY NSW 2097 Lot 46 DP 10648 , 43 Hay Street COLLAROY NSW 2097 Lot 43 DP 10648 , 37 Hay Street COLLAROY NSW 2097
<b>Detailed Site Description:</b>	<p>The subject site consists of four allotments located on the north-eastern side of Hay Street, Collaroy.</p> <p>The site is irregular in shape with frontages of 60.885 metres (plus 3.02 metre splay) along Hay Street and 42.945 metres along Anzac Avenue, and a maximum depth of 45.1 metres. The site has a surveyed area of 2,839.1m<sup>2</sup>.</p>

The site is located within the R2 Low Density Residential zone and accommodates four one-storey or two-storey detached dwelling houses (one per existing lot).

The site has a crossfall of approximately 6 metres from south-west to north-east. The site includes a number of trees, in the front and rear yards of the four existing lots.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by one- and two-storey detached dwelling houses.

Map:



#### **SITE HISTORY**

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

No prelodgement meeting was held in relation to the proposed development.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 Matters for Consideration	Comments
environmental planning instrument	
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case, as the 'deemed refusal' of the application was made to the NSW Land and Environment Court before conclusion of Council's preliminary assessment, at which point a request for information would have been provided. In accordance with Court protocol, correspondence with the Applicant was not entered after the point the appeal was lodged.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 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	<p>(i) <b>Environmental Impact</b></p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah</p>

Section 4.15 Matters for Consideration	Comments
impacts on the natural and built environment and social and economic impacts in the locality	<p>Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development.
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	The application is recommended for refusal in the public interest, given the inconsistency with the objectives of the R2 Low Density Residential zone and the development standards for which the application seeks variation.

## 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 14/07/2023 to 28/07/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 154 submission/s from:

Name:	Address:
Mr David Terrence O'reilly	72 Hay Street COLLAROY NSW 2097
Mr Patrick James O'Sullivan Annette Doris O'sullivan	27 Hay Street COLLAROY NSW 2097
Mr Paul Raymond Cashmore Mrs Elizabeth Jean Cashmore	13 Hay Street COLLAROY NSW 2097
Mr Nicholas John Ruban Terese Anne White	44 Hay Street COLLAROY NSW 2097

Name:	Address:
Nathan Nicholas Ruban Samuel Ruban Ava Ruban	
Mr Derrick Keith Jones Mrs Alison Michele Jones	24 Hay Street COLLAROY NSW 2097
Nadia Priestly	5 Hay Street COLLAROY NSW 2097
Gregory John Bourke Mrs Kathryn Eileen Bourke	22 Jamieson Parade COLLAROY NSW 2097
Ailsa Russell	9 Worcester Street COLLAROY NSW 2097
Miss Sally Nicole White Ms Emma Louise O'byrne	965 Pittwater Road COLLAROY NSW 2097
Mrs Julie Ann Lendrum	17 Norfolk Avenue COLLAROY NSW 2097
Michael William Clements Shane Erica Clements	36 Hay Street COLLAROY NSW 2097
Mrs Jennifer Robyn Priest Mr Nathan Drew Priest	33 Kirkstone Road WHEELER HEIGHTS NSW 2097
Janice Elizabeth Crealy	14 / 944 Pittwater Road DEE WHY NSW 2099
Scott Jackson Mitchell Mrs Louise Susanne Mitchell	67 Hay Street COLLAROY NSW 2097
Mr Nicholas Steven James Katie Amanda Marshall	72 Cumberland Avenue COLLAROY NSW 2097
Darryl James Gilmartin	44 Penrith Avenue WHEELER HEIGHTS NSW 2097
Ms Kathleen Margaret Kissell	16 Bedford Crescent COLLAROY NSW 2097
Mrs Julie Anne Lewis	20 Hay Street COLLAROY NSW 2097
Mr Peter Eastway	32 Hay Street COLLAROY NSW 2097
Mr Saviour Mario Filletti	42 Eve Street STRATHFIELD NSW 2135
Suzanna Eileen Mary O'Rourke	25 Collaroy Street COLLAROY NSW 2097
Mr Ritchard Anthony Garlick	1 Hay Street COLLAROY NSW 2097
Mrs Jennifer Elaine Rose	8 Bedford Crescent COLLAROY NSW 2097
Ms Diana Maria Perrin	1 Bedford Crescent COLLAROY NSW 2097
Mrs Jeanette Estelle Heber	12 Hay Street COLLAROY NSW 2097
Mr Mark Douglas Gason	69 Hay Street COLLAROY NSW 2097
Miss Emma Rose Jeffcoat	22 Hay Street COLLAROY NSW 2097
Bill Tulloch	Po Box 440 MONA VALE NSW 1660
Mrs Carmel Louise Cheney- Fielding	23 Anzac Avenue COLLAROY NSW 2097
Ms Alison Mary Trevaskis	11 Worcester Street COLLAROY NSW 2097
Bradley Mark Tattersall Brigitte Tattersall	12 Jamieson Parade COLLAROY NSW 2097
Mr Anthony Charles Douglas Mrs Susan Douglas	11 Kandra Road BEACON HILL NSW 2100
Mr Nicholas Swinger	46 Anzac Avenue COLLAROY NSW 2097

<b>Name:</b>	<b>Address:</b>
Mr Stephen Ralph Garmston Karen Lynette Garmston	21 Ocean Grove COLLAROY NSW 2097
Mary Alexandria Clarkson	14 Hendy Avenue COLLAROY NSW 2097
Russell Edward Young	29 Hay Street COLLAROY NSW 2097
Ms Katherine Rees	28 Hay Street COLLAROY NSW 2097
Mr Ian David Schmarr Emma Kate Murdoch	91 Cumberland Avenue COLLAROY NSW 2097
Mrs Fay Morris	1017 Pittwater Road COLLAROY NSW 2097
Mr Joseph Julian Hauser	31 Hay Street COLLAROY NSW 2097
Mr Kevin Michael Dwyer	983 Pittwater Road COLLAROY NSW 2097
Tsimafei Khadnevich	94 Anzac Avenue COLLAROY NSW 2097
Mrs Anne Margaret Hackett Mr Warren Patrick Michael Hackett	30 Hay Street COLLAROY NSW 2097
Rhea Katherine Smith Al Kosh	9 Hay Street COLLAROY NSW 2097
Leah Rochelle Gason	69 Hay Street COLLAROY NSW 2097
Mrs Caroline Wright	71 Anzac Avenue COLLAROY NSW 2097
Ms Anne Frances Sullivan	953 Pittwater Road COLLAROY NSW 2097
Helen Ruth Wheeler	79 Hay Street COLLAROY NSW 2097
Mrs Sara Jacqueline Spitzer	8 Jamieson Parade COLLAROY NSW 2097
Mr Richard Haydn Black	36 Ocean Grove COLLAROY NSW 2097
Mr Ernest John Webber Mrs Barbara Alice Harrison	993 Pittwater Road COLLAROY NSW 2097
Mr Robert William Thomson Mrs Carole Ruth Thomson	40 Hay Street COLLAROY NSW 2097
Mr Michael David Eaton Mrs Susan Elizabeth Eaton	15 Hay Street COLLAROY NSW 2097
Mr Paul Stuart Maestri	2 Lancaster Crescent COLLAROY NSW 2097
Mr Bruce Alfred Richardson	20 Bedford Crescent COLLAROY NSW 2097
Mr Jeffrey Graham Price	1 Jamieson Parade COLLAROY NSW 2097
Amanda Chapman	73 Anzac Avenue COLLAROY NSW 2097
Miss Beverley Elizabeth Gilbey	989 Pittwater Road COLLAROY NSW 2097
Mr Brian Patrick Carpenter	38 Hay Street COLLAROY NSW 2097
Mr Stuart Charles Armstrong Ms Diane Elizabeth Strange	49 Hay Street COLLAROY NSW 2097
Mr Robert Donald Sinclair Lynda Ilma Sinclair	999 A Pittwater Road COLLAROY NSW 2097
Brian Stephen Tuckey Gaye Ann Tuckey	4 Jamieson Parade COLLAROY NSW 2097
Genevieve Godwin	65 Anzac Avenue COLLAROY NSW 2097



<b>Name:</b>	<b>Address:</b>
Mrs Natalie Lisa Hall Tara Hall	81 Hay Street COLLAROY NSW 2097
Mrs Deidre Catherine McAlinden Mr Paul Oudhof	34 Hay Street COLLAROY NSW 2097
Kim Stanton-Cook Mrs Elizabeth Marian Stanton-Cook	4 Bedford Crescent COLLAROY NSW 2097
Mr Brian John Maher	40 Hendy Avenue COLLAROY NSW 2097
Mr Vivian Martin Meredith	20 Hendy Avenue COLLAROY NSW 2097
Mrs Beryl Witt	10 Hendy Avenue COLLAROY NSW 2097
Sarah Zanini	Address Unknown
Mrs Anita Lund	6 Hendy Avenue COLLAROY NSW 2097
Mr Peter John Rust Linda Gabrielle Rust	22 Hendy Avenue COLLAROY NSW 2097
Mrs Tania Papandrea	PO Box 167 COLLAROY NSW 2097
Ms Kerryn Margaret Chad	35 Ocean Grove COLLAROY NSW 2097
Mr James Thomas Curtis Mrs Karen Elizabeth Curtis	68 Anzac Avenue COLLAROY NSW 2097
Mr Paul John Garrod Gail Frances Garrod	77 Hay Street COLLAROY NSW 2097
Mrs Jennifer Laura Harrison Mr Mark Harrison	82 Anzac Avenue COLLAROY NSW 2097
Mr Brian Edward Kent	31 Hendy Avenue COLLAROY NSW 2097
Mrs Louise Priestly	7 McCarrs Creek Road CHURCH POINT NSW 2105
Mr John Brian Richards	4 Hendy Avenue COLLAROY NSW 2097
Ms Olivia Vizzard John Desmond Vizzard	25 Anzac Avenue COLLAROY NSW 2097
Jacqueline Mare	2 B Lancaster Crescent COLLAROY NSW 2097
Mrs Victoria Dawn Hardy	42 Jamieson Parade COLLAROY NSW 2097
Simon James Burns Emilie Kate Burns	25 Hay Street COLLAROY NSW 2097
Mr Mark Samuel Gilligan Mrs Nicaly Janel Notting	10 Hay Street COLLAROY NSW 2097
Kenneth Allan Gittoes	18 Bedford Crescent COLLAROY NSW 2097
Patrick Joseph Laws Charlotte Helen Laws	51 Hay Street COLLAROY NSW 2097
Mrs Elyse Catherine Baulderstone	60 Hay Street COLLAROY NSW 2097
Ms Joanne Patricia Bayes Mr Brian Anthony Bench	27 Anzac Avenue COLLAROY NSW 2097
Ms Isabella Christina Howland Jolly	2 A Lancaster Crescent COLLAROY NSW 2097

Name:	Address:
Ms Caroline Mary Carter	110 Anzac Avenue COLLAROY NSW 2097
Mrs Rheannon Cassimaty	15 Kent Street COLLAROY NSW 2097
Ms Caroline Mary Gracie	3 Worcester Street COLLAROY NSW 2097
Mrs Joan Olive Fawcett	26 A Worcester Street COLLAROY NSW 2097
Mr Grahame Hamilton Mrs Janet Elizabeth Hamilton	70 Anzac Avenue COLLAROY NSW 2097
Mrs Julie Elizabeth Anderson Mr Graham Grant Anderson	23 Worcester Street COLLAROY NSW 2097
Mrs Christina Kirsch Mr Christopher Mark Davies	58 Cumberland Avenue COLLAROY NSW 2097
Mr Hendrik Lucas Van Laar	10 Bedford Crescent COLLAROY NSW 2097
Mrs Renee Patricia Jennings	Po Box 346 COLLAROY BEACH NSW 2097
Tristan David Huggett Lucy Therese Huggett	55 Cumberland Avenue COLLAROY NSW 2097
Mr Matthew Thomas Parsons	102 Anzac Avenue COLLAROY NSW 2097
Mr Lachlan Robert Taylor	19 Hay Street COLLAROY NSW 2097
Mrs Dimity Leigh Hand	7 Aubreen Street COLLAROY PLATEAU NSW 2097
Mrs Signe Breidahl Steers	18 Boomerang Road COLLAROY PLATEAU NSW 2097
Ms Nicola Jayne Faith	14 Michele Road CROMER NSW 2099
Mr Elliot James Graham Miss Emma Louise Graham	3 Hay Street COLLAROY NSW 2097
Mrs Maria Imelda Argel	92 Anzac Avenue COLLAROY NSW 2097
Mrs Annabelle Ashwin	26 Fuller Street COLLAROY PLATEAU NSW 2097
Mrs Sally Emma Hill	8 Randall Court COLLAROY PLATEAU NSW 2097
Mrs Alexandra Louise Warrener Mr Michael Ashton Warrener	17 Bedford Crescent COLLAROY NSW 2097
Mrs Tahni Maree Aitken	48 Davis Avenue SOUTH YARRA NSW 3141
Mr Colm Martin Mcalinden	996 Pittwater Road COLLAROY NSW 2097
Mr Peter John Huggett Mrs Elizabeth Cynthia Huggett	11 Hendy Avenue COLLAROY NSW 2097
Mr Trevor Gerrard Campbell	35 Norfolk Avenue COLLAROY NSW 2097
Mrs Rita Ann Graham	1 / 949 Pittwater Road COLLAROY NSW 2097
Heath Graham	3 / 949 Pittwater Road COLLAROY NSW 2097
Mr Glen Allan Pattison	73 Cumberland Avenue COLLAROY NSW 2097
Peter Ronald Orchard	17 Suffolk Avenue COLLAROY NSW 2097
Ms Jeanette Vizzard	1670 Pittwater Road BAYVIEW NSW 2104
Mr Simon Wilson	69 Anzac Avenue COLLAROY NSW 2097
Mrs Gail Colleen Williams	3 Kent Street COLLAROY NSW 2097
Mr Anthony Lloyd Ladd	24 Jamieson Parade COLLAROY NSW 2097
Ms Catherine Claire Tissier	1 Hendy Avenue COLLAROY NSW 2097

<b>Name:</b>	<b>Address:</b>
Milly Fayle	Address Unknown
Mrs Eveline Verkooijen-Tazelaar Mr Christopher Eric Tazelaar	29 Anzac Avenue COLLAROY NSW 2097
Ms Vicky Kostanda	42 Hay Street COLLAROY NSW 2097
Mrs Marie Therese Randolph	29 Katrina Avenue MONA VALE NSW 2103
Mrs Jacqueline Suzanne Shepherd	47 Hay Street COLLAROY NSW 2097
Kaylie Hollins	48 Hay Street COLLAROY NSW 2097
Mr Carl Robert Musker	63 Blandford Street COLLAROY PLATEAU NSW 2097
Kylie De Pinho	Address Unknown
Mrs Andjela Campanella	23 Claudare Street COLLAROY PLATEAU NSW 2097
Roselyn Singh	Address Unknown
Ms Lynnette Anne Kearney	19 Suffolk Avenue COLLAROY NSW 2097
Mr Matthew Alan Newall Mrs Prudence Suzanne Peill Newall	54 Hay Street COLLAROY NSW 2097
Joanne Frances Mcewan Mr Matthew Robert McEwan	67 Anzac Avenue COLLAROY NSW 2097
Mr Michael John Guberina	29 Kywong Road ELANORA HEIGHTS NSW 2101
Miss Marnie Morrison	42 Anzac Avenue COLLAROY NSW 2097
Withheld	COLLARROY NSW 2097
Mr Michael Warren Hall	1001 Pittwater Road COLLAROY NSW 2097
Cathryn Mary White	25 / 1030 - 1034 Pittwater Road COLLAROY NSW 2097
Mr Julian Kenneth Edwards	1 Suffolk Avenue COLLAROY NSW 2097
Mrs Pamela June Phillips	93 Cumberland Avenue COLLAROY NSW 2097
Mr Matthew Thomas Gittoes	58 Hay Street COLLAROY NSW 2097
Mrs Lynnette Irene Boyd	66 Cumberland Avenue COLLAROY NSW 2097
Mrs Elizabeth Mary Labone	68 Cumberland Avenue COLLAROY NSW 2097
Stuart John Bernard Barnard Catherine Jane Barnard	5 Bedford Crescent COLLAROY NSW 2097
Ms Tegan Brome Ryan	957 Pittwater Road COLLAROY NSW 2097
Maria Nero	36 Cumberland Avenue COLLAROY NSW 2097
Mrs Noeline Ann Petith Mark Petith	38 Ocean Grove COLLAROY NSW 2097
James Peter Webber Mrs Jane Amanda Webber	15 Worcester Street COLLAROY NSW 2097
Mrs Angela Jane McNay	19 Bedford Crescent COLLAROY NSW 2097
Mr Richard John Rowley Mrs Karen Swinburn Rowley	955 Pittwater Road COLLAROY NSW 2097
Alexandra Helen Nicol Norris	38 Hendy Avenue COLLAROY NSW 2097

The following issues were raised in the submissions:

- *Increase to traffic congestion, including during construction, and an increased demand on street parking,*
- *Inconsistency with the character of the street, the R2 zone, and the local heritage value, and undesirable precedent,*
- *Loss of vegetation, landscaping, and local fauna,*
- *Hazard to cyclists using the nearby cycle path,*
- *Loss of property value,*
- *Amenity concerns, including visual and acoustic privacy, overshadowing, view loss, and the noise, stockpiling, dust, and vibration associated with construction,*
- *Excessive excavation and bulk and scale, including non-compliance with design requirements and built form controls,*
- *Stormwater and overland flow impacts,*
- *Inadequate documentation,*
- *Concern about accessibility, both internal and external,*
- *Geotechnical concerns, and*
- *Concern that the development is prohibited.*

The above issues are addressed as follows:

### **Permissibility**

#### **Comment:**

A number of submissions raised concerns that the proposal takes advantage of a 'loophole' in the legislation in order to seek a land use that is prohibited in the R2 Low Density Residential zone. While seniors housing is indeed prohibited under *Warringah Local Environmental Plan 2011* (WLEP 2011), Clause 8 of the *State Environmental Planning Policy (Housing) 2021* (the Housing SEPP) provides that, if there is an inconsistency between the Housing SEPP and another environmental planning instrument (such as the WLEP), the Housing SEPP prevails to the extent of the inconsistency. Part 5 of the Housing SEPP contains the provisions for seniors housing developments, including (at Clause 79) a list of zones in which Part 5 applies, which lists R2 Low Density Residential. Clause 81 of the Housing SEPP provides that Development for the purposes of seniors housing may be carried out on land to which Part 5 applies. That is to say, this is not a loophole, and is rather a specifically included provision to allow for seniors housing in low density residential areas, subject to compliance with the applicable planning provisions and controls.

### **Traffic Congestion and Parking Demand**

#### **Comment:**

Matters relating to traffic and parking are addressed in the section of this report relating to Referrals, specifically within commentary from Council's Traffic Engineer.

### **Character - Hay Street, R2 Zone, Heritage**

#### **Comment:**

This assessment concludes that the proposed development is inconsistent with the character of Hay Street and surrounding streets, and is inconsistent with the objectives of the R2 zone. This is included in the reasons for refusal. It should be noted that the subject site and surrounding sites are not heritage-listed, nor within a heritage conservation area.

### **Landscaping - Loss of Vegetation and Impact on Fauna**

Comment:

The proposed development provides landscaped area in compliance with the requirements of the Housing SEPP. However, the quantity and variety of planting selected is unsatisfactory with respect to the requirements of Clause 99 of the Housing SEPP, as discussed in the relevant section of this report. This is included as a reason for refusal.

**Bicyclist Safety**

Comment:

It is recognised that the subject site is located on a road marked as a shared bicycle and vehicle route. Council's Traffic Engineer has raised no concern with the proposed development with respect to conflict between cyclists and vehicles.

**Amenity - Visual Privacy Loss, View Loss, Overshadowing**

Comment:

This assessment concludes that the proposed development results in unreasonable impacts with respect to loss of visual privacy and views. These matters are included as reasons for refusal. The proposed development is compliant with the relevant solar access requirements of Clause D6 Access to Sunlight of the WDCP, and Clause 108 of the Housing SEPP.

**Construction Amenity - Noise, Dust, Vibration, Stockpiling of Materials**

Comment:

Should the application be determined by way of approval, conditions of consent can be applied to ensure no unreasonable impacts arise as a result of demolition, excavation and construction.

**Excessive Excavation and Bulk and Non-Compliance with Controls**

Comment:

This assessment concludes that the proposed development results in excessive excavation, unreasonable bulk and scale, and unacceptable non-compliance with applicable built form controls. These matters are included in the reasons for refusal.

**Stormwater and Overland Flow**

Comment:

Further to the commentary provided by Council's Development Engineer (as detailed in the section of this report relating to Referrals), the proposed development is not supported by sufficient information to demonstrate compliance with Council's stormwater management requirements regarding the provision of onsite stormwater detention (OSD), and the proposed connection to Council's drainage system in Anzac Avenue. This is included as a reason for refusal.

**Internal and External Accessibility**

Comment:

The proposed development is supported by an access report prepared by a suitably qualified professional. The report demonstrates the proposed development is acceptable with regard to accessibility requirements. Should the application be determined by way of approval, the recommendations of the report would be enforced by way of conditions of consent.

**Geotechnical Hazards**

Comment:

The proposed development is supported by a geotechnical risk assessment report prepared by a

suitably qualified professional. The report concludes that the proposed development is of acceptably low risk with reference to geotechnical hazards, subject to compliance with recommendations. Should the application be determined by way of approval, the recommendations of the report would be enforced by way of conditions of consent.

### **Inadequate Supporting Documentation**

#### Comment:

Concern was raised that the application is not supported by adequate "engineer and fire safety reports". The proposed development is supported by a Building Code of Australia report, which covers fire safety requirements and recommendations. Detailed engineering plans are not required at development application stage and would instead be provided to the Certifier prior to the issue of the Construction Certificate.

### **Loss of Property Value**

#### Comment:

Impact on property values is not a planning matter for consideration under the *Environmental Planning and Assessment Act 1979*.

## **REFERRALS**

<b>Internal Referral Body</b>	<b>Comments</b>
Design and Sustainability Advisory Panel	<p><b>Not Supported</b></p> <p>The comments from the Design and Sustainability Advisory Panel are paraphrased as follows:</p> <p><i>The Panel does not support the proposal in its current form. The FSR non-compliance is substantial and does not appear justified in an R2 zone and a reduction in floor area is required. Improvements are also sought to the Anzac Avenue frontage.</i></p> <p><i>The proposed built form contrasts with the neighbourhood character, which consists of mainly 2-storey single dwellings large suburban blocks, some with front fences and all with some form of planting and lawn.</i></p> <p><i>The quality of documentation and architecture is high and the landscape is generally supported, though the Panel would support a more substantial planting strategy that consists of all layers of planting including ground covers, shrubs, mid-storey planting and upper canopy trees with a medium spread of at least 8 metres.</i></p>
Building Assessment - Fire and Disability upgrades	<p><b>Supported, subject to conditions</b></p> <p>The application has been investigated with respects to aspects relevant 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>

Internal Referral Body	Comments
	<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> <p>Relevant conditions can be included if the application is to be approved.</p>
Landscape Officer	<p><b>Not Supported</b></p> <p>Demolition of existing dwelling and construction of a Seniors Housing Development over four existing residential blocks.</p> <p>The Arborist's report prepared by Complete Arborcare and Landscape Plans prepared by iScape are noted.</p> <p>The Arborist's report indicates that 9 trees on the site are to be removed to accommodate the proposed works. This comprises all trees on the site.</p> <p>However, the report does not identify all trees currently on the site, a number of trees presumably being exempt species under WDCP.</p> <p>It is important to note that the quantum of vegetation to be removed across the sites is significant. Based on the Survey Plan, a total of 28 trees &gt;5m height are to be removed to accommodate the proposed works.</p> <p>The Landscape plans indicate replanting of 33 trees over the site. However, of these, 9 trees are indicated to be &lt;5m height (hence exempt under WDCP) and 10 trees are exempt palm species.</p> <p>The proposed tree planting to the Anzac Avenue front setback comprises 3 trees &lt; 4m height (<i>Lagerstroemia indica</i> 'Souix', also an exempt species under WDCP), with narrow garden beds comprising largely monoculture planting of Lilly Pilly. It is considered that little by way of streetscape integration will be provided by the proposed planting and planting areas.</p> <p>Along the Hay Street frontage, the tree planting includes 10 exempt palm species (<i>Archontophoenix</i> sp.) and 4 exempt <i>Lagerstroemia</i> sp., &lt;5m height. It is noted that 1 x <i>Angophora costata</i> and 2 x <i>Banksia serrata</i> are proposed at the southern end of the development, however, the majority of the Hay Street frontage comprises the exempt species which offer little by way of canopy to assist in integrating the proposal into the streetscape. The extent of ramped pathways along the Hay Street and Anzac Avenue frontages restricts the volume and type of planting that can be provided.</p> <p>The plans indicate 3 relatively narrow grass areas between the paved terraces and stairs down to rear lawn at the rear of Apartments 4, 5 and 6. These areas are not considered to be viable or particularly useable and servicable areas and would be better either paved to the</p>

Internal Referral Body	Comments
	<p>stairs or alter the design to have the stairs coming immediately off the terraces and provide a larger soft landscape area at the rear of the site.</p> <p>The plans indicate fill to the rear of the apartments along the eastern portion of the site. It s unclear the proposed wall heights to these areas, however it is apparent that the rear terraces particularly to Apartment 1 and Apartment 4 will be elevated &gt;1m above boundary levels, making these private open space areas quite visible from Anzac Avenue and properties to the east.</p> <p>Two large native trees are proposed for removal at the southern end of the site. The trees are located close to boundaries, however the design proposed does not enable retention of the trees, though it is apparent that with amendments to the design, the trees may be able to be retained.</p> <p>The proposal is therefore not able to be supported with regard to landscape issues.</p>
NECC (Development Engineering)	<p><b>Not Supported</b></p> <p>The application for a seniors living development has been reviewed and is not supported for the following reasons:</p> <p>1) <u>On site stormwater detention:</u></p> <ul style="list-style-type: none"> <li>• The drainage design engineer is to provide evidence of registration as required by the Designer and Building Practitioners Regulation 2021for storm water drainage design.</li> <li>• The drainage engineer is to provide a DRAINS model for councils review as required by Councils Water management policy for development. The pre existing flow condition is to be modelled as state of nature up to the 1/100 AEP storm.</li> <li>• In reference to section 9.7.3 of the policy - Minimum Information required for all Developments Except Single Residential Dwelling Development the applicant should provide all the minimum information as required.</li> <li>• The drainage catchment plan should also include the footpath catchment area that will drain into the development site.</li> <li>• Demonstration that the OSD pipe outlet is not affected by tail water levels from the proposed Anzac Avenue Pit and Pipe extension works. This is to demonstrate that the OSD pipe outlet is free draining and proposed storage volumes are not compromised.</li> </ul> <p>2) <u>Proposed external site stormwater works (proposed stormwater line in Anzac Avenue):</u></p> <ul style="list-style-type: none"> <li>• The design engineer is to provide a fully detailed design of the proposed pit and pipe connection to the existing Council inlet</li> </ul>



Internal Referral Body	Comments
	<p>Pit corner of Anzac and Pittwater road. This is to include a pipe long section details including hydraulic grade line , existing service crossings , and class of pipe based on traffic loadings and proposed cover.</p> <ul style="list-style-type: none"> <li>• A DRAINS model is to be provided to determine the upstream catchment flows into the drainage line . Councils Auspec One document is to be used in the analysis and pipe design . Minimum pipe size is 375mm RCP .</li> </ul>
NECC (Water Management)	<p><b>Not Supported</b></p> <p>This application was assessed in consideration of but not limited to:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Relevant LEP and DCP clauses;</li> <li>• Northern Beaches Water Management for Development Policy</li> </ul> <p>Council does not support the use of proprietary devices for pollutant removal if they do not achieve natural water cycle processes such as infiltration, evaporation or transpiration. Stormwater Cartridges as the sole water quality measure are not sufficient as they do not fulfill Councils WSUD objectives.</p> <p>Consider incorporating WSUD elements onsite and investigate opportunities to place vegetated water quality system (bio filtration system or others) in the space above the proposed OSD.</p> <p>Suggestions for WSUD optimisation includes, but is not limited to, incorporation of tree pits, filter planter box, rain gardens or green walls into design.</p> <p>Additional information about WSUD can be found in the Northern Beaches Council <i>Water Management for Development Policy</i> and the <i>WSUD &amp; Music Modelling Guidelines</i>.</p> <p>The applicant is to submit a stormwater management strategy and plan based on a stormwater treatment chain.</p> <p>A water quality model (MUSIC or equivalent) is to be submitted as part of the application (SQZ file).</p>
Traffic Engineer	<p><b>Supported, subject to conditions</b></p> <p>The development application is for demolition of 4 houses on No.s 37-43 Hay Street and construction of a seniors living development comprised of 11 x 3 bedroom units with basement parking for 24 vehicles accessed by a driveway ramp off the sites Hay Street frontage.</p> <p><u>Parking</u> SEPP Housing clause 108 requires the provision of no less than 0.5 parking spaces for each bedroom of an independent living</p>

Internal Referral Body	Comments
	<p>development. 11 x 3 bedroom units would therefore require at least 16.5 parking spaces to be provided on the site. The development proposes 24 offstreet parking spaces which exceeds the above requirement.</p> <p>Although the SEPP requirements is the reference document, applicants traffic consultant has referenced the Warringah DCP parking requirements which stipulate that 1.5 parking spaces be provided for each 3 bedroom dwelling with 1 visitor parking space also required for each 5 units or part thereof. The above would result in a requirement for 18.5 (19) parking spaces including 2.2 (2) visitor parking spaces. The developer proposes 24 car spaces including 2 visitor parking spaces which is acceptable and exceeds both SEPP Housing and DCP requirements.</p> <p><u>Traffic Generation</u></p> <p>The applicants traffic report has estimated the traffic generation of the development based upon rates in the RMS technical directive TDT2013/04a with surveys of seniors housing developments revealed a peak hour traffic generation of 0.4 trips per dwelling and a daily traffic generation of 2.1 trips per dwelling. In the peak hour this would equate to 4.4 trips per hour. This level of traffic generation will not result in adverse traffic impacts on the surrounding road network particularly when noted that the development replaces 4 existing dwellings which would have generated a similar level of traffic.</p> <p><u>Vehicular Access and parking area design</u></p> <p>The driveway into the development is of a width that is adequate to allow for two way traffic into and out of the driveway. The driveway is graded at 2.5% across the footpath before grading down into the carpark. The ramp gradients and transitions are within limits specified in As2890.1 clause 2.5.3 and will not result in vehicle scraping.</p> <p>The parking spaces are appropriately sized with the traffic report advising that each space is at least 2.4m wide and 5.4m deep. The carparking spaces and aisle widths have not been dimensioned and this will be conditioned. Access to and from critically located parking spaces has been demonstrated with swept path plots for the B85 vehicle consistent with the requirements of As2890.1</p> <p><u>Access to transport</u></p> <p>Bus stops are sited approximately 200m from the most south bound pedestrian access point serving the development on both the east and west side of Pittwater Road. These stops are served by a number of regular bus services including the 199 bus service and the 181X bus service which provide access for residents to shops and services. the bus stops are accessible via existing footpaths with existing traffic signals providing signalised pedestrian crossings which can be used by residents to access public transport on the east side of Pittwater Road. The above satisfies Clause 93 of SEPP Housing relating to location and access to facilities and services</p>

Internal Referral Body	Comments
	<p><u>Sight lines</u> The required sightlines to pedestrians and vehicular traffic at the development proposed driveway are achieved and there are no sight distance concerns</p> <p>Relevant conditions can be included if the application is to be approved.</p>
Waste Officer	<p><b>Not Supported</b></p> <p><u>Bulky Goods Room</u> A bulky goods storage room has not been provided - unacceptable. Room with a volume of 4 cu metres for each ten dwellings, and part there of, must be provided for the storage of unwanted bulky items awaiting collection. It is acceptable for the room to be within the basement. The room must have a door a minimum of 1200mm wide that opens outwards. The room must have a minimum ceiling clearance of 2.1 metres. Floor area is to be calculated assuming materials are stacked to a maximum of 2 metres high.</p> <p><u>Bin Storage Room</u> The door to the bin room must be a minimum of 1200mm wide. All other aspects of the proposed bin room (location and access) comply with Council Waste Design Guidelines.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	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 will be included as a condition of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1403626M dated 28 June 2023). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	48
Thermal Comfort	Pass	Pass
Energy	45	50

A condition can be included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate, if the application is to be approved.

### SEPP (Housing) 2021

#### Part 5 – Housing for seniors and people with a disability

#### Division 3 Development Standards

Clause 84 – Development Standards (General)	
Standard	Compliance/Comment
2) Development consent must not be granted for the development unless:	
a) The site area of the development is at least 1,000m <sup>2</sup> .	Complies. Site area is 2,839.1m <sup>2</sup> .
b) The frontage of the site area of the development is at least 20m measured at the building line.	Complies. Hay Street frontage is 60.885m (plus 3.05m splay) and Anzac Avenue frontage is 42.845m.
c) For development on land in a residential zone where residential flat buildings are not permitted - the development will not result in a building: <ul style="list-style-type: none"> <li>i) with a height of more than 9.5m, excluding servicing equipment on the roof of the building, and</li> <li>ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3), and</li> <li>iii) if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site.</li> </ul>	In accordance with recent caselaw via the NSW Land and Environment Court ( <i>Merman Investments Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1582</i> ), building height is to be taken from the existing ground level, whether disturbed or undisturbed. Insufficient information has been provided to establish the exact height of building proposed. The ground level of the existing dwelling houses is not provided on sections. Non-compliant height is not supported with reference to building bulk, view loss, and character.

3) The servicing equipment must:	
a) be fully integrated into the design of the roof or contained and suitably screened from view from public places.	Servicing equipment on the roof is suitably integrated.
b) be limited to an area of no more than 20% of the surface area of the roof.	Servicing equipment on the roof accounts for less than 20% of the roof's surface area.
c) not result in the building having a height of more than 11.5m.	The proposed development does not have a height of more than 11.5m.

## **Clause 85 – Development Standards for Hostels and Independent Living (Self-Care) Units**

### **Standard**

- 1) Development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the following under Schedule 4.
- 2) An independent living unit, or part of an independent living unit, located above the ground floor in a multi-storey building need not comply with the requirements in Schedule 4 (being Sections 2, 7 - 13 and 15 – 20) if the development application is made by, or by a person jointly with, a social housing provider.

An assessment against Schedule 4 has been completed in the following tables:

<b>Part 1 - Standards applying to hostels and independent living units</b>	
<b>Section 2 - Siting Standards</b>	
1) If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.	The subject site an overall gradient of less than 1:10. The proposed development is supported by continuous accessible paths to Hay Street and Anzac Avenue.
2) If the whole of the site does not have a gradient of less than 1:10: <ol style="list-style-type: none"> <li>a) 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 greater), and</li> <li>b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway accessible to all residents.</li> </ol>	Not applicable.
3) Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.	Compliant access for a person using a wheelchair is provided to all common areas and common facilities.
<b>Section 3 - Security</b>	
Pathway lighting: <ol style="list-style-type: none"> <li>a) must be designed and located so as to avoid glare for pedestrians and adjacent</li> </ol>	The proposed development is designed such that this matter can be complied with at detailed design stage.

<p>dwelling, and</p> <p>b) must provide at least 20 lux at ground level.</p>	
<b>Section 4 - Letterboxes</b>	
<p>Letterboxes:</p> <p>a) must be situated on a hard standing area and have appropriate wheelchair access by a continuous accessible path of travel, (within the meaning of AS 1428.1); and</p> <p>b) must be lockable, and</p> <p>c) must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry.</p>	<p>The proposed development includes a letterbox that complies with the matters at a) and c). The proposed development is designed such that the matter at b) can be complied with at detailed design stage.</p>
<b>Section 5 - Private Car Accommodation</b>	
<p>If car parking (not being car parking for employees) is provided:</p> <p>a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890.6, and</p> <p>b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and</p> <p>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.</p>	<p>The matters at a) and b) are addressed by Council's Traffic Engineer. The proposed development is designed such that the matter at c) can be complied with at detailed design stage.</p>
<b>Section 6 - Accessible Entry</b>	
<p>Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with sections 4.3.1 and 4.3.2 of AS 4299.</p>	<p>Entries to each of the proposed units complies with the relevant requirements.</p>
<b>Section 7 - Interior - General</b>	
<p>Internal doorways must have a minimum clear opening that complies with AS 1428.1.</p>	<p>All internal doorways comply with AS 1428.1.</p>
<p>Internal corridors must have a minimum unobstructed width of 1m.</p>	<p>All internal corridors are at least 1m wide without obstruction.</p>
<p>Circulation space at approaches to internal doorways must comply with AS 1428.1.</p>	<p>All circulation spaces at approaches to internal doorways comply with AS 1428.1.</p>
<b>Section 8 - Bedroom</b>	
<p>At least 1 bedroom within each dwelling must have:</p>	<p>At least one bedroom for every unit achieves the requirements at a) and b). The proposed</p>

<ul style="list-style-type: none"> <li>a) an area sufficient to accommodate a wardrobe and a bed sized as follows: <ul style="list-style-type: none"> <li>i) <b>for a dwelling in a hostel</b> - a single-size bed,</li> <li>ii) <b>for an independent living unit</b> - a queen-size bed, and</li> </ul> </li> <li>b) a clear area for the bed of at least: <ul style="list-style-type: none"> <li>i) 1.2m wide at the foot of the bed, and</li> <li>ii) 1m wide beside the bed between it and the wall, wardrobe or another obstruction, and</li> </ul> </li> <li>c) 2 double general power outlets on the wall where the head of the bed is likely to be, and</li> <li>d) at least 1 general power outlet on the wall opposite the wall where the head of the bed is likely to be, and</li> <li>e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and</li> <li>f) wiring to allow a potential illumination level of at least 300 lux.</li> </ul>	<p>development is designed such that the matters at c) through f) inclusive can be complied with at detailed design stage.</p>
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## Section 9 - Bathroom

<ul style="list-style-type: none"> <li>1) At least 1 bathroom within a hostel or independent living unit must be on the ground or main floor and have the following facilities arranged within an area that provides for circulation space for a wheelchair around sanitary facilities in accordance with AS 1428.1: <ul style="list-style-type: none"> <li>a) a slip-resistant floor surface,</li> <li>b) a washbasin with plumbing that would facilitate clearances that comply with AS 1428.1,</li> <li>c) a shower that complies with AS 1428.1, except that the following must be able to be accommodated: <ul style="list-style-type: none"> <li>i) a grab rail,</li> <li>ii) a portable shower head,</li> <li>iii) a folding seat,</li> </ul> </li> </ul> <p><b>Note:</b> Sub-section (1)(c) does not prevent the installation of a shower screen that can easily</p> </li> </ul>	<p>Apartments 4 through 11 include bathrooms on the ground or main floor capable of achieving compliance with these requirements. Apartments 1 through 3 include bathrooms on the upper floor capable of achieving compliance with these requirements, though the upper floor can be accessed via a private lift. This does not equate to strict compliance.</p>
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<p>be removed to facilitate future accessibility.</p> <p>d) a wall cabinet sufficiently illuminated to be able to read the labels of items stored in it,</p> <p>e) a double general power outlet beside the mirror.</p>	
<b>Section 10 - Toilet</b>	
A dwelling must have at least 1 toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	The proposed development is compliant with these requirements.
<b>Section 11 - Surface Finishes</b>	
Balconies and external paved areas must have slip-resistant surfaces.	The proposed development is designed such that this matter can be complied with at detailed design stage.
<b>Section 12 - Door Hardware</b>	
Door handles and hardware for all doors, (including entry doors and other external doors), must be provided in accordance with AS 4299.	The proposed development is designed such that this matter can be complied with at detailed design stage.
<b>Section 13 - Ancillary Items</b>	
Switches and power points must be provided in accordance with AS 4299.	The proposed development is designed such that this matter can be complied with at detailed design stage.

<b>Part 2 - Additional Standards for Independent Living Units</b>	
<b>Section 15 - Living Room and Dining Room</b>	
<p>1) A living room must have:</p> <p>a) a circulation space in accordance with clause 4.7.1 of AS 4299, and</p> <p>b) a telephone adjacent to a general power outlet.</p>	Each unit contains a living room that complies with the matter at a). The proposed development is designed such that the matter at b) can be complied with at detailed design stage.
2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.	The proposed development is designed such that this matter can be complied with at detailed design stage.
<b>Section 17 - Access to kitchen, Main Bedroom, Bathroom and Toilet</b>	
In a multi-storey independent living unit, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Apartments 1 through 3 are two-storey. These units include a ground floor kitchen, bathroom and toilet at the entry level. The bedrooms are located on the upper floor. However, the upper floor can be accessed via a private lift. These units also contain a "flexi" room capable of being converted to a bedroom. This does not equate to strict compliance.
<b>Section 18 - Lifts in Multi-Storey Buildings</b>	
In a multi-storey building containing separate independent living units on different storeys, lift	The proposed development includes two lift shafts for the purpose of accessing upper level



access must be provided to dwellings above ground level of the building by way of a lift complying with clause E3.6 of the Building Code of Australia.	units, in compliance with the requirements of the BCA.
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### Section 19 - Laundry

<p>An independent living unit must have a laundry that has:</p> <ul style="list-style-type: none"> <li>a) a circulation space at door approaches that complies with AS 1428.1, and</li> <li>b) provision for the installation of an automatic washing machine and a clothes dryer, and</li> <li>c) a clear space in front of appliances of at least 1,300mm, and</li> <li>d) a slip-resistant floor surface, and</li> <li>e) an accessible path of travel to any clothesline provided in relation to the dwelling.</li> </ul>	Regarding a), each unit contains a laundry with compliant door circulation space. Regarding c), Apartments 1 through 4 and 7 include laundries of insufficient dimensions to allow clear space in front of appliances. The proposed development is designed such that the matters at b), d) and e) can be complied with at detailed design stage.
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### Section 20 - Storage for Linen

Linen storage must be provided in accordance with clause 4.11.5 of AS 4299.	Each unit contains a compliant space for storage of linen. The matter of adjustable shelving can be complied with at detailed design stage.
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### Section 21 - Garbage

A garbage storage area must be provided in an accessible location.	The proposed development includes a bin storage room on the Hay Street frontage, being an accessible location.
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### Clause 88 – Restrictions on Occupation of Seniors Housing

Standard	Compliance/Comment
1) Development permitted under this Part may be carried out for the accommodation of only the following:	
a) seniors or people who have a disability,	Complies.
b) people who live in the same household with seniors or people who have a disability,	Complies.
c) staff employed to assist in the administration and provision of services to housing provided under this Part.	Not applicable.
2) Development consent must not be granted under this Part unless the consent authority is satisfied that only the kinds of people referred to in sub-section (1) will occupy accommodation to which the development relates.	Complies.

### Clause 90 – Subdivision

Standard	Compliance/Comment
1) Development consent may be granted for the subdivision of land on which development has	No subdivision is proposed.

been carried out under this Part.	
2) Development consent must not be granted for the subdivision of a building resulting from development carried out under this Part on land in Zone R2 Low Density Residential or Zone B3 Commercial Core.	No subdivision is proposed.

#### Division 4 – Site-related requirements

Clause 93 – Location and access to facilities and services (independent living units)	
Standard	Compliance/Comment
1) Development consent <b>must not</b> be granted for development for the purposes of an independent living unit unless the consent authority has considered whether residents will have adequate access to <b>facilities and services</b> :	
a) by a transport service that complies with sub-section (2), or	The proposed development is located such that it will have adequate access to facilities and services, as demonstrated below with respect to 2), by way of a public transport service.
b) on-site.	Not proposed.
<b>Note:</b> <i>Facilities and services means:</i>	
<ul style="list-style-type: none"> <li>a) <i>shops and other retail and commercial services that residents may reasonably require, and</i></li> <li>b) <i>community services and recreation facilities, and</i></li> <li>c) <i>the practice of a general medical practitioner.</i></li> </ul>	
2) The transport service must:	
a) take the residents to a place that has adequate access to facilities and services, and	The transport service is public bus Route 199, which can take residents to Dee Why town centre and Brookvale (including Warringah Mall) to the south, and Warriewood Square to the north, being locations containing facilities and services.
b) for development on land within the Greater Sydney region: <ul style="list-style-type: none"> <li>i) not be an on-demand booking service for the transport of passengers for a fare, and</li> <li>ii) be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.</li> </ul>	The bus service is not an on-demand booking service. The bus service is available at least once between 8am and midday, and at least once between midday and 6pm, every day.
3) For the purposes of sub-sections (1) and (2), access is adequate if:	
a) the facilities and services are, or the transport service is, located at a distance of not more than 400m from the site, and	The bus stop for services to the north is located 60m walking distance from the site. The bus stop for services to the south is located 115m walking distance from the site.
b) the distance is accessible by means of a suitable access pathway, and	The distances noted above are accessible by way of a suitable pathway.
c) the gradient along the pathway complies with sub-section (4)(c).	The pathways noted above are of a compliant gradient.
4) In sub-section (3):	

a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and	The proposed development is compliant with this requirement.
b) the distance is to be measured by reference to the length of the pathway, and	The proposed development is compliant with this requirement.
c) the overall average gradient must be no more than 1:14 and the gradients along the pathway must be no more than: <ul style="list-style-type: none"> <li>i) 1:12 for a maximum of 15m at a time, or</li> <li>ii) 1:10 for a maximum length of 5m at a time, or</li> <li>iii) 1:8 for a maximum length of 1.5m at a time.</li> </ul>	The proposed development is compliant with this requirement.

<b>Clause 95 – Water and sewer</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
1) A consent authority must not consent to development under this Part unless the consent authority is satisfied the seniors housing will:	
a) be connected to a reticulated water system, and	The subject site is serviced by a reticulated water system.
b) have adequate facilities for the removal or disposal of sewage.	The subject site is serviced by sewerage.
2) If the water and sewerage services will be provided by a person other than the consent authority, the consent authority:	
a) must consider the suitability of the site in relation to the availability of reticulated water and sewerage infrastructure, or	The existing reticulated water system can support the proposed increase in density, subject to the development's compliance with Council's Water Management for Development Policy.
b) if reticulated services are not available—must satisfy the relevant authority that the provision of water and sewerage infrastructure, including environmental and operational considerations, is satisfactory for the development.	Not applicable.

<b>Clause 96 – Bush fire prone land</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
1) A consent authority must not consent to development under this Part on bush fire prone land unless the consent authority is satisfied that the development complies with the requirements of Planning for Bushfire Protection.	The land is not classified as bush fire prone land.
2) In determining a development application for development under this Part on land near bush fire prone land, a consent authority must:	

a) consult with the NSW Rural Fire Service and consider its comments, and	
b) consider the following including: <ul style="list-style-type: none"> <li>i) the location of the development,</li> <li>ii) the means of access to and egress from the location,</li> <li>iii) the size of the existing population within the area,</li> <li>iv) age groups within the population and the number of persons within the age groups,</li> <li>v) the number of hospitals and other facilities providing care to the residents of the facilities within the area, and the number of beds within the hospitals and facilities,</li> <li>vi) the number of schools within the area and the number of students at the schools,</li> <li>vii) existing seniors housing within the area,</li> <li>viii) the road network within the area and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the area in the event of a bush fire,</li> <li>ix) the adequacy of access to and from the site of the development for emergency response vehicles,</li> <li>x) the nature, extent and adequacy of bush fire emergency procedures that can be applied to the development and its site,</li> <li>xi) the requirements of Fire and Rescue NSW.</li> </ul>	

## Division 5 – Design requirements

Clause 97 – Design of in-fill self-care housing	
Standard	Compliance/Comment
<p>In determining a development application for development for the purposes of in-fill self-care housing, a consent authority must consider the <b>Seniors Living Policy: Urban Design Guideline for Infill Development</b> published by the Department of Infrastructure, Planning and Natural Resources in March 2004.</p>	<p>The proposed development does not give adequate consideration to the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> regarding site planning and design, impacts on streetscape, and landscaping.</p> <p>With respect to Part 2 Site Planning and Design of the Seniors Living Policy, the proposal fails to respond well to the ‘less urban’ nature of the site by proposing to remove all trees from the site, and by presenting a landscape design that cannot support canopy trees in the street frontages. The proposed landscape outcome is not characteristic of the locality.</p>

	With respect to Part 3 Impacts on Streetscape of the Seniors Living Policy, the proposal fails to enable the planting of trees and vegetation to enhance the desirable elements and scale of the streetscape.
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<b>Clause 98 – Design of seniors housing</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
A consent authority must not consent to development under this Part unless the consent authority is satisfied that the development demonstrates adequate regard has been given to the principles set out in Division 6 (see table below).	Having regard to Clause 106 of the Housing SEPP the design of the proposal does not demonstrate that adequate consideration has been given to the principles set out in Division 6.

## **Division 6 – Design Principles**

<b>Clause 99 – Neighbourhood amenity and streetscape</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
Development for the purposes of seniors housing should:	
a) recognise that the operational, functional and economic requirements of residential care facilities typically require a different building shape from other residential accommodation, and	It is acknowledged seniors housing requires a different building shape from other residential accommodation.
b) recognise the desirable elements of: <ul style="list-style-type: none"> <li>i) the location's current character, or</li> <li>ii) for precincts undergoing a transition - the future character of the location so new buildings contribute to the quality and identity of the area,</li> </ul>	The resultant scale of the proposed development is not compatible with the low density residential environment in this area of Collaroy. The proposal presents unreasonable, excessive built form, inconsistent with the character of the area. The subject site is surrounded by one- and two-storey detached dwelling houses in landscaped settings. The proposed development does not suitably break up the built form via architectural design and vegetation such that it is compatible with this existing and desired character, and presents as residential flat building (medium density), which is a prohibited use in the R2 zone.
c) complement heritage conservation areas and heritage items in the area, and	The subject site and surrounding sites are not heritage-listed, nor within a heritage conservation zone.
d) maintain reasonable neighbourhood amenity and appropriate residential character by: <ul style="list-style-type: none"> <li>i) providing building setbacks to reduce bulk and overshadowing, and</li> <li>ii) using building form and siting that relates to the site's land form, and</li> </ul>	<p>The proposed setbacks do not reduce bulk effectively. The proposed development is compliant with applicable solar access requirements.</p> <p>The proposed development does not use a building form and siting that relates to the site's land form, in that it does not step down with the</p>

<p>iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and</p> <p>iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p>	<p>topography of the site and relies on unreasonable excavation to the extent that it breaches the primary front boundary and rear boundary setback controls.</p> <p>Insufficient information has been provided to establish the exact height of building proposed. The ground level of the existing dwelling houses is not provided on sections. The building is not of a scale that is compatible with adjacent and nearby buildings.</p> <p>The proposed development does not include any walls located on boundaries.</p>
e) be designed so the front building on the site is set back generally in line with the existing building line, and	The proposed development is not set back generally in line with the existing dwelling houses, and includes breaches to the applicable setback controls, as detailed in the relevant sections of this report.
f) include plants reasonably similar to other plants in the street, and	The development does not include plants reasonably similar to other plants in the street by proposing a narrow palette of small (<4m in height) planting to the streetscape. Additionally, most planting species included at the street frontage are classified as exempt and can be removed without consent.
g) retain, wherever reasonable, significant trees, and	The development includes removal of all trees from the site, including trees in good health and condition with no structural defects or pests, as identified in the submitted arboricultural impact assessment.
h) be designed so no building is constructed in a riparian zone.	The subject site is not classified as a riparian zone.

#### Clause 100 – Visual and acoustic privacy

Standard	Compliance/Comment
Development for the purposes of seniors housing should consider the visual and acoustic privacy of adjacent neighbours and residents by:	
a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and	The proposed development does not use appropriate site planning with respect to the location and design of windows and balconies, such that it results in unreasonable visual privacy impacts to the dwellings to the east fronting Pittwater Road (Nos. 987, 989, 991 and 993).
b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	The proposed development is acceptably designed with respect to acoustic privacy.

#### Clause 101 – Solar access and design for climate

Standard	Compliance/Comment
Development for the purposes of seniors housing should:	
a) for development involving the erection of a new building provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and	The proposed development is compliant with applicable solar access requirements.
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.	The proposed development does not make use of site planning or landscaping to effectively reduce energy use. The development includes a narrow palette of small (<4m in height) planting that will not provide adequate shade to assist in reduction of summer heat to the development, thereby resulting in higher energy use to cool the dwellings.

Clause 102 – Stormwater	
Standard	Compliance/Comment
Development for the purposes of seniors housing should aim to:	
a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	The proposed development is not supported by sufficient information to demonstrate compliance with Council's stormwater management requirements regarding the provision of onsite stormwater detention (OSD) and regarding connection to Council's drainage system in Anzac Avenue.
b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	

Clause 103 – Crime prevention	
Standard	Compliance/Comment
Development for the purposes of seniors housing should be designed in accordance with environmental design principles relating to crime prevention, provide personal property security for residents and visitors and encourage crime 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 the area, driveway or street, and	The proposed development is designed such that this matter can be complied with at detailed design stage.
b) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and	The proposed development is designed such that this matter can be complied with at detailed design stage.
c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The proposed development is designed such that this matter can be complied with at detailed design stage.

Clause 104 – Accessibility	
Standard	Compliance/Comment

Development for the purposes of seniors housing should:	
a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	The proposed pathways to services are clearly demarcated throughout the property.
b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development is of high architectural design quality and provides safe access for residents and visitors.

Clause 105 – Waste management	
Standard	Compliance/Comment
Development for the purposes of seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	The proposed development is designed such that this matter can be complied with at detailed design stage.

## Division 7 – Non-Discretionary Development Standards

Clause 106 – Interrelationship of Division with design principles in Division 6	
Standard	Compliance/Comment
Nothing in this Division permits the granting of consent to development under this Part if the consent authority is satisfied that the development does not demonstrate that adequate regard has been given to the principles set out in Division 6.	The design of the proposal does not demonstrate that adequate consideration has been given to the principles set out in Division 6.

Clause 108 – Non-discretionary development standards for independent living units	
Standard	Compliance/Comment
2) The following are non-discretionary development standards in relation to development for the purposes of an independent living unit:	
Height	
a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,	As above at Clause 84.
b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m:	
i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and ii) is limited to an area of no more than 20% of the surface area of the roof, and iii) does not result in the building exceeding a height of 11.5m.	
Density and Scale (FSR)	
c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.	Does not comply. The proposed development includes a floor space ratio of 0.72:1 (2,053.2m <sup>2</sup> ).



<b>Landscaped Area</b>	
d) for a development application made by a social housing provider - at least 35m <sup>2</sup> of landscaped area per dwelling,	Not applicable.
e) if (d) does not apply - at least 30% of the site area is landscaped,	Complies. The proposed development includes 37% (1,051m <sup>2</sup> ) of the site as landscaped area.
f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site.	Complies. The proposed development includes 35.4% (1,005m <sup>2</sup> ) of the site as deep soil planting.
<b>Solar Access</b>	
g) at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces.	The proposed development is compliant with this requirement.
<b>Private Open Space</b>	
<p>h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building:</p> <ul style="list-style-type: none"> <li>i) at least 15m<sup>2</sup> of private open space per dwelling, and</li> <li>ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor.</li> </ul> <p><b>Note:</b> <i>The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one (see Schedule 4, section 2).</i></p>	The proposed development is compliant with these requirements.
<p>i) for a dwelling in a multi-storey building not located on the ground floor – a balcony accessible from a living area with minimum dimensions of 2m and:</p> <ul style="list-style-type: none"> <li>i) an area of at least 10m<sup>2</sup>, or</li> <li>ii) for a 1 bedroom dwelling - an area of at least 6m<sup>2</sup>.</li> </ul>	Not applicable.
<b>Car Parking</b>	
j) for a development application made by, or made by a person jointly with, a social housing provider - at least 1 parking space for every 5 dwellings,	Not applicable.
k) if (j) does not apply - at least 0.5 parking space for each bedroom.	Complies. The proposed development includes 40 bedrooms, requiring 20 parking spaces. The proposed development includes 22 resident parking spaces and 2 visitor parking spaces.

<b>Schedule 4 Standards concerning accessibility and usability for hostels and independent living units</b>	
<b>Part 1 - Standards applying to hostels and independent living units</b>	
<b>Section 2 - Siting Standards</b>	
<b>Standard</b>	<b>Compliance / Comment</b>
1) Wheelchair access If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.	The subject site an overall gradient of less than 1:10. The proposed development is supported by continuous accessible paths to Hay Street and Anzac Avenue.
2) If the whole of the site does not have a gradient of less than 1:10: a) 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 greater), and b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway accessible to all residents.	Not applicable.
3) Common Areas Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.	Compliant access for a person using a wheelchair is provided to all common areas and common facilities.
<b>Section 3 - Security</b>	
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.	The proposed development is designed such that this matter can be complied with at detailed design stage.
<b>Section 4 - Letterboxes</b>	
Letterboxes: (a) must be situated on a hard standing area and have appropriate wheelchair access by a continuous accessible path of travel, (within the meaning of AS 1428.1); and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry or, in the case of independent living units, must be located together in one or more central locations adjacent to the street entry.	The letterbox is located in accordance with the requirements of AS 1428.1. The proposed development is designed such that the matters at b) and c) can be complied with at detailed design stage.
<b>Section 5 - Private Car Accommodation</b>	
If car parking (not being car parking for employees) is provided: (a) car parking spaces must comply with the requirements for parking for persons with a	The matters at a) and b) are addressed by Council's Traffic Engineer. The proposed development is designed such that the matter at c) can be complied with at detailed design stage.

<p>disability set out in AS 2890.6, and</p> <p>(b) 10% of the total number of car parking spaces (or at least one space if there are fewer than 10 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and</p> <p>(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.</p>	
<b>Section 6 - Accessible Entry</b>	
Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with sections 4.3.1 and 4.3.2 of AS 4299.	The proposed development is compliant with these requirements.
<b>Section 7 - Interior - General</b>	
<p>(1) Internal doorways must have a minimum clear opening that complies with AS 1428.1.</p> <p>(2) Internal corridors must have a minimum unobstructed width of 1m.</p> <p>(3 ) Circulation space at approaches to internal doorways must comply with AS 1428.1.</p>	The proposed development is compliant with these requirements.
<b>Section 8 - Bedroom</b>	
<p>At least 1 bedroom within each dwelling must have:</p> <p>(a) an area sufficient to accommodate a wardrobe and a bed sized as follows—</p> <p>(i) in the case of a dwelling in a hostel—a single-size bed,</p> <p>(ii) in the case of an independent living unit—a queen-size bed, and</p> <p>(b) a clear area for the bed of at least—</p> <p>(i) 1,200 millimetres wide at the foot of the bed, and</p> <p>(ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and</p> <p>(c) 2 double general power outlets on the wall where the head of the bed is likely to be, and</p> <p>(d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and</p> <p>(e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and</p> <p>(f) wiring to allow a potential illumination level of at least 300 lux.</p>	At least one bedroom for every unit achieves the requirements at a) and b). The proposed development is designed such that the matters at c) through f) inclusive can be complied with at detailed design stage.
<b>Section 9 - Bathroom</b>	
(1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities	Apartments 4 through 11 include bathrooms on the ground or main floor capable of achieving compliance with these requirements. Apartments 1 through 3 include bathrooms on the upper floor

<p>in accordance with AS 1428.1—</p> <p>(a) a slip-resistant floor surface,</p> <p>(b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,</p> <p>(c) a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future—</p> <p>(i) a grab rail,</p> <p>(ii) portable shower head,</p> <p>(iii) folding seat,</p> <p>(d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,</p> <p>(e) a double general power outlet beside the mirror.</p>	<p>capable of achieving compliance with these requirements, though the upper floor can be accessed via a private lift. This does not equate to strict compliance.</p>
<b>Section 10 - Toilet</b>	
<p>A dwelling must have at least 1 toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.</p>	<p>The proposed development is compliant with these requirements.</p>
<b>Section 11 - Surface Finishes</b>	
<p>Balconies and external paved areas must have slip-resistant surfaces.</p>	<p>The proposed development is designed such that this matter can be complied with at detailed design stage.</p>
<b>Section 12 - Door Hardware</b>	
<p>Door handles and hardware for all doors, (including entry doors and other external doors), must be provided in accordance with AS 4299.</p>	<p>The proposed development is designed such that this matter can be complied with at detailed design stage.</p>
<b>Section 13 - Ancillary Items</b>	
<p>Switches and power points must be provided in accordance with AS 4299.</p>	<p>The proposed development is designed such that this matter can be complied with at detailed design stage.</p>

## SEPP (Transport and Infrastructure) 2021

### Ausgrid

Section 2.48 of Chapter 2 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 will be included as a condition of consent.

## **SEPP (Resilience and Hazards) 2021**

### **Chapter 4 – Remediation of Land**

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## **Warringah Local Environmental Plan 2011**

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

### **Principal Development Standards**

There are no applicable principal development standards under Part 4 of the Warringah LEP 2011 to consider as part of this application, as the development standards of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') prevail. The applicable development standards are addressed in the section of this report relating to the Housing SEPP.

### **Compliance Assessment**

<b>Clause</b>	<b>Compliance with Requirements</b>
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	No
6.2 Earthworks	Yes
6.4 Development on sloping land	No

### **Detailed Assessment**

## **Zone R2 Low Density Residential**

The proposed development is inconsistent with the objectives of the R2 Low Density Residential zone, as follows:

*To provide for the housing needs of the community within a low density residential environment.  
To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

While the proposed development would provide for additional seniors housing supply, the resultant scale is not compatible with the low density residential environment in this area of Collaroy. The proposal presents unreasonable, excessive built form, inconsistent with the character of the area.

The subject site is surrounded by one and two-storey detached dwelling-houses in landscaped settings. The proposed development does not suitably break up the built form via architectural design and vegetation such that it is compatible with this existing and desired character. Rather, it presents distinctively as a residential flat building (medium density) typology, which is a prohibited land-use in the R2 zone.

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

Comment:

Not applicable. The proposed development retains the residential use of the site.

### **4.3 Height of buildings**

This clause allows for a maximum height of 8.5 metres. Clauses 84(c)(i) and 108(2)(a) of the *State Environmental Planning Policy (Housing) 2021* (the Housing SEPP) provides for a maximum height of 9.5 metres. Clause 8 of the Housing SEPP provides that, if there is an inconsistency between the Housing SEPP and another environmental planning instrument (such as the WLEP), the Housing SEPP prevails to the extent of the inconsistency. An assessment of height is provided in the section of this report relating to the Housing SEPP.

### **4.6 Exceptions to development standards**

#### **Description of Non-compliance**

Development standard:	Floor Space Ratio, as set by Clause 108(2)(c) of the <i>State Environmental Planning Policy (Housing) 2021</i>
Requirement:	0.5:1 (1,419.55m <sup>2</sup> )
Proposed:	0.72:1 (2,035.2m <sup>2</sup> )
Percentage variation to requirement:	44.6%

#### **Assessment of Request to Vary a Development Standard**

The following assessment of the variation to Clause 108(2)(c) of the Housing SEPP has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

#### **Clause 4.6 Exceptions to Development Standards**

(1) *The objectives of this clause are as follows:*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 108(2)(c) of the Housing SEPP is not expressly excluded from the operation of this clause.

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

**Clause 4.6 (4)(a)(i) (Justification) Assessment**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two separate matters for consideration contained within Clause 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

The Applicant's written request has not demonstrated that the objectives of Clause 4.4 of the *Warringah Local Environmental Plan 2011* (in the absence of objectives for Clause 108(2)(c) of the *State Environmental Planning Policy (Housing) 2021*) are achieved. In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a).

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's

written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'*

Section 1.3 of the EPA Act reads as follows:

### **1.3 Objects of Act(cf previous s 5)**

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

### **Applicants Written Request**

The Applicant's written request argues, in part:

*"...the proposed development is contained wholly within a building envelope that is considered appropriate for development within the locality, and deemed appropriate for development within the R2 Low Density Residential zone. The development is demonstrated to comply with prescribed building height, setback, side boundary envelope and landscaping controls prescribed by the SEPP and DCP.*

*The proposed floor space has been distributed across the site in a highly articulated and modulated 2 and 3 storey stepped building form which appropriately addresses each of its Hay Street and Anzac Avenue frontages.*

*As a result of compliance with the maximum building height, building envelope for 3 storey developments and landscaping standards prescribed by the SEPP, and development controls relating to building setbacks and side building envelopes established by the DCP, the extent of 'non-compliance' it is not visually intrusive, will not cause impact upon views from any adjoining property, will not impact privacy, and will not cause adverse overshadowing impacts upon any adjoining property.*

*The form and massing of the building is therefore demonstrated to be consistent with the desired future character of the immediate area as reflected by compliance with the appropriate building height*



*and envelope controls. The contextually responsive development is consistent with the zone objectives and the objectives of the FSR development standard prescribed by the LEP. For these reasons, compliance with the standard is unreasonable and/or unnecessary.*

*The responsiveness of the development to the site's topography, the exceptional design quality, the appropriateness of selected building materials, textures and colours in responding to the site's context, amenity of the building's residents, maintenance of amenity for neighbouring residents, and the site's consistency with the desired future character of the locality, are all environmental planning grounds that justify a departure from the FSR development standard."*

The above discussion is not concurred with, for the following reasons:

- The applicable DCP controls envisage low density detached housing, not wide planes of medium density built form, as depicted in this proposal.
- If the four lots were developed individually, significant breaks in built form would be observed with meaningful landscaping and vegetation surrounding and between those dwellings. It is accepted that a development for seniors housing is a particular building typology that may not replicate such built form, but it is expected that the selected built form provide greater consistency with this envisaged character in order to be compatible and complementary.
- The built form represents a departure from the existing and desired character of the R2 Low Density Residential zone and the character of Hay Street, Anzac Avenue and the surrounds.
- The articulation referred to is not anticipated to be read well by the casual observer, as they do not appear large enough to have benefit, and are not softened with vegetation.
- The proposed development results in impacts to views as a direct result of the excessive building bulk and scale and associated non-compliant FSR.
- The proposed development contains avoidable non-compliances with the primary front, secondary front, and rear setback controls.

Therefore, the applicant's written request has not adequately addressed the matters required to be demonstrated by Clause 4.6(3).

#### **Clause 4.6 (4)(a)(ii) (Public Interest) Assessment**

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

#### Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the development standard and the objectives of the R2 Low Density Residential zone. In the absence of objectives for Clause 108(2)(c) of the Housing SEPP, the Applicant has sought to rely on the objectives of Clause 4.4 Floor Space Ratio of the Warringah LEP 2011, which is an equivalent control. An assessment against these objectives is provided below.

#### **Development Standard Objectives**

*(a) to limit the intensity of development and associated traffic generation so that they are*

*commensurate with the capacity of existing and planned infrastructure, including transport infrastructure,*

Comment:

Council's Traffic Engineer has reviewed the proposed development and raises no objection to the proposal with reference to traffic generation.

*(b) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*

Comment:

The proposed development provides excessive floor space, significantly greater than anticipated for the foreseeable future, as evidenced by the substantial size of the variation, being 44.6%.

*(c) to ensure that buildings, by virtue of their bulk and scale, are consistent with the desired character of the locality,*

Comment:

The resultant bulk and scale of the proposed development is not compatible with the low density residential environment in this area of Collaroy. The proposal presents unreasonable, excessive built form, inconsistent with the character of Hay Street, Anzac Avenue and surrounds. The subject site is surrounded by one and two-storey detached dwelling houses in landscaped settings. The proposed development does not suitably break up the built form via architectural design and vegetation such that it is compatible with this existing and desired character, and presents as residential flat building (medium density), which is a prohibited use in the R2 zone.

*(d) to manage the visual impact of development when viewed from public spaces,*

Comment:

The proposed development will be readily visible from the site's frontages on both Hay Street and Anzac Avenue. The subject site (and therefore the proposed development) has a large visual catchment extending along Hay Street approximately 70m to the south and over 100m to the north, along Anzac Avenue approximately 100m to the west and approximately 80m to the east, being across to the eastern side of Pittwater Road. The visual impact of the development's excessive bulk and scale will be experienced throughout this catchment.

*(e) to maximise solar access and amenity for public areas.*

Comment:

The proposed development is compliant with the applicable solar access controls. However, the proposed development results in view loss and visual privacy loss, as detailed in the relevant sections of this report.

## **Zone Objectives**

The underlying objectives of the R2 Low Density Residential zone are addressed in the relevant section of this report.

### **Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment**

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the inconsistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the floor space ratio development standard cannot be assumed.

## 6.2 Earthworks

The objective of Clause 7.2 Earthworks requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition can be included requiring any fill to be of a suitable quality, if the application is to be approved.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions can be included to limit impacts during excavation/construction, if the application is to be approved.

*(e) the source of any fill material and the destination of any excavated material*

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition of consent can be included requiring any fill to be of a suitable quality, if the application is to be approved.

*(f) the likelihood of disturbing relics*

Comment:

The subject site is not in the vicinity of items or areas of Aboriginal heritage significance.

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

Conditions can be included that will minimise the impacts of the development, if the application is to be approved.

*(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.*

Comment:

The site is not a heritage item, in the vicinity of a heritage item or in a conservation area or archaeological site.

## 6.4 Development on sloping land

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

*(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and*

Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

*(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and*

Comment:

The Applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have concern regarding stormwater management (as detailed in the sections of this report relating to Referrals, and Clause C4 Stormwater of the WDCP 2011. Therefore, Council is not supportive of the proposal with respect to (b).

*(c) the development will not impact on or affect the existing subsurface flow conditions.*

Comment:

The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to (c).

The concern with respect to (b) above is included as a reason for refusal.

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	Max. 7.2m	Max. 6.8m	-	Yes
B3 Side Boundary Envelope	S: 4.0m	Within Envelope	-	Yes
B5 Side Boundary Setbacks	S: Min. 900mm	Min. 3.4m	-	Yes
B7 Front Boundary Setbacks (Hay Street)	Min. 6.5m	Basement: 6.2m	4.6%	No
		Ground: 1.5m to Bin Store 6.5m to Building	76.92% -	No Yes

		First: Min. 6.8m	-	Yes
B7 Secondary Frontage Setbacks (Anzac Avenue)	Min. 3.5m	Basement: 4.6m	-	Yes
		Ground: Min. 3.5m	-	Yes
		First: Min. 3.0m	14.28%	No
B9 Rear Boundary Setbacks	Min. 6.0m	Basement: Min. 5.4m	10%	No
		Ground: Min. 4.1m	31.67%	No
		First: Min. 4.5m	25%	No

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	No	No
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	N/A	N/A
C4 Stormwater	No	No
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D1 Landscaped Open Space and Bushland Setting	N/A	N/A
D2 Private Open Space	N/A	N/A
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	No	No
D8 Privacy	No	No
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	N/A	N/A
E2 Prescribed Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

#### Detailed Assessment

### **A.5 Objectives**

The proposed development is inconsistent with the following objectives of the Warringah Development Control Plan 2011:

1. The proposed development does not suitably respond to the characteristics of the site and the qualities of the surrounding neighbourhood, with respect to the proposed bulk and scale of the development in the low density residential zoning of the site.
2. The proposed development does not present as a good neighbour, create a unified landscape, contribute to the street, or create an attractive design outcome, with respect to the resultant building bulk and scale and attributable amenity impacts on view loss and privacy.
3. The proposed development does not inspire innovative residential design, as it results in unreasonable amenity and character impacts directly attributable to the proposed bulk and scale.

### **B7 Front Boundary Setbacks**

This clause requires a minimum setback to the primary front boundary (Hay Street) of 6.5m. The proposal includes structures within the primary front boundary setback area as follows:

- Basement excavation 6.2m from the boundary, and
- Ground floor bin room 1.5m from the boundary.

This clause requires a minimum setback to the secondary front boundary (Anzac Avenue) of 3.5m. The proposal includes structures within the secondary front boundary setback area as follows:

- First floor balconies 3.0m from the boundary.

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

*To create a sense of openness.*

#### Comment:

The proposed development retains a relatively open front setback to the primary street frontage on Hay Street, other than the bin room, which disrupts the visual continuity of built form along the street, as below. The Anzac Avenue front setback area contains allowable structures (stairs and retaining walls), and the non-compliant balconies at the first floor. The non-compliant balconies allow some openness, though also disrupt the visual continuity of built form, as below.

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

Comment:

The proposed development presents unreasonable building bulk to both the Hay Street and Anzac Avenue street frontages, attributable in part to the non-compliant front boundary setbacks (both primary and secondary). The proposed bin room to the Hay Street frontage presents an unacceptable protrusion into the front setback that is not replicated in the visual catchment of the subject site, such that it disrupts the visual continuity and pattern of buildings and landscape elements along Hay Street.

The articulation to Anzac Avenue (northern) elevation is insufficient in offsetting the impact of the secondary street frontage breach. The articulation is of insufficient dimensions to include meaningful landscaping and vegetation to soften the built form.

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

Comment:

The proposed development does not protect or enhance the visual quality of the Hay Street and Anzac Avenue street frontages, in that the development is of excessive and unacceptable bulk in the low-density context of the site and area. The proposed development presents unreasonable visual imposition in both streets, as well as from surrounding points within the visual catchment of the site, including from Anzac Avenue to the east and west, Hay Street to the south and north, and from the eastern side of Pittwater Road at the Anzac Avenue intersection.

*To achieve reasonable view sharing.*

Comment:

The proposed development does not allow for reasonable view sharing, though not directly attributable to the elements of the proposal that are not compliant with this control.

The proposed non-compliance with the front setback control (both primary and secondary) is included as a reason for refusal.

## **B9 Rear Boundary Setbacks**

This clause requires a minimum setback to the rear boundary of 6.0m. The proposal includes structures within the rear boundary setback area as follows:

- Basement excavation is 5.4m from the boundary,
- Ground floor convertible living room / bedroom ("flexi" room) and terrace of Apartment 1, and rear access stairs of Apartments 4, 5, and 6 are 4.4m from the boundary, and
- First floor bedroom 3 of Apartment 1 is 4.5m from the boundary.

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

*To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposed development provides compliant landscaped open space and opportunities for deep soil planting around the site, including within the rear setback area.

*To create a sense of openness in rear yards.*

Comment:

The inclusion of wide access stairs and built form elements within the rear setback contribute to a sense of terracing in the rear yard and detract from the site's sense of openness in the rear yard and do not retain a feeling of being clear of built form, as would be expected for a rear yard.

*To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

*To provide opportunities to maintain privacy between dwellings.*

Comment:

The proposed development results in unreasonable impact on the visual privacy of the adjoining properties, as assessed in detail in the section of this report relating to Clause D8 Privacy of the WDCP. In part, the privacy impact is as a result of the proposed non-compliant rear elements:

- Apartment 1: The eastern window to the ground floor "flexi" room, the ground floor rear terrace, and the eastern window of the first floor bedroom 3.

*To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The four properties subject of this application, and surrounding properties display consistent generous rear setbacks in the order of 8-15m, with the exception of some ancillary structures like rear sheds and garages. The proposed non-compliant elements disrupt the visual continuity of the rear yards in the locality, and prevent continuation of the landscaped character of rear yards.

The proposed non-compliance with the rear setback control is included as a reason for refusal.

### **C3 Parking Facilities**

The parking requirements of Clauses 108(2)(k) and sub-clause 5 of Part 1 Schedule 4 of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') prevail. The applicable requirements are addressed in the section of this report relating to the Housing SEPP.

### **C4 Stormwater**

Further to the commentary provided by Council's Development Engineer (as detailed in the section of this report relating to Referrals), the proposed development is not supported by sufficient information to demonstrate compliance with Council's stormwater management requirements regarding

- The provision of onsite stormwater detention (OSD), and
- The proposed connection to Council's drainage system in Anzac Avenue.

Given this, the proposed development cannot be found to comply with the requirements of this clause.

This is included as a reason for refusal.

### **C9 Waste Management**



This clause provides that all development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines.

Part 4.5 of the Waste Management Guidelines (applying to developments with three or more dwellings) stipulates that for development with more than ten dwellings, a bulky goods waste storage area must be provided. No bulky goods waste storage area is included in the proposed development.

This is included as a reason for refusal.

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

The landscaped area requirements of Clauses 108(2)(e) and (f) of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') prevail. The applicable requirements are addressed in the section of this report relating to the Housing SEPP.

## **D2 Private Open Space**

The private open space requirements of Clauses 108(2)(h) and (i) of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') prevail. The applicable requirements are addressed in the section of this report relating to the Housing SEPP.

## **D7 Views**

Submissions from properties at No. 17 Bedford Crescent, and Nos. 32, 34, 35, 36 and 38 Hay Street raised concern that the proposed development will result in view loss to those properties.

Internal access to Nos. 17 Bedford Crescent and 35 Hay Street was not made available at the time of writing this report. External site visits to 17 Bedford Crescent and 35 Hay Street confirm that view loss from these properties is nil or negligible and is therefore not the focus of this assessment.

The development is considered against the underlying objectives of the control as follows:

*To allow for the reasonable sharing of views.*

### Comment:

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

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

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

### Comment to Principle 1:

The affected views are as follows:

- 32 Hay Street: The view contains the subject site, the ocean and its horizon, other residential properties, and vegetation. The view does not contain icons.
- 34 Hay Street: The view contains the subject site, the ocean and its horizon, other residential properties, and vegetation. The view does not contain icons.

- 36 Hay Street: The view contains the subject site, the ocean and its horizon, Long Reef Headland, other residential properties, and vegetation. The view does not contain icons, though Long Reef Headland is of local significance.
- 38 Hay Street: The view contains the subject site, the ocean and its horizon, other residential properties, and vegetation. The views towards the ocean are corridors. The view does not contain icons.

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

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

### Comment to Principle 2:

The affected views are obtained as follows:

- 32 Hay Street: Ground floor living room and front balcony, and first floor bedroom and study, each from standing and seated positions, across the eastern front boundary.
- 34 Hay Street: Ground floor front porch, main bedroom, spare bedroom, living room, and dining room, each from standing and seated positions, across the eastern front boundary.
- 36 Hay Street: Ground floor front balcony, living room and main bedroom, each from standing and seated positions, across the eastern front boundary.
- 38 Hay Street: Ground floor front balcony and living room, from standing and seated positions, across the eastern front boundary.

## 3. Extent of impact

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

### Comment to Principle 3:

The following photos and descriptions depict the existing views and the anticipated impact of the proposed development on those views.

#### **32 Hay Street:**

The proposed development is anticipated to reduce the view from the ground floor living room and balcony by approximately one third. The impact to views at the ground floor is **moderate**.



*Above: The views from the living room (left) and balcony (right) on the first floor at 32 Hay Street, from standing positions, looking north-east across the subject site.*

At the first floor level, the view is anticipated to be unaffected by the proposed development, given the bedroom and study on the first floor of 32 Hay Street is expected to look over the top of the built form.



*Above: The views from the main bedroom (left) and study (right) on the first floor at 32 Hay Street, from standing positions, looking north-east across the subject site.*

### **34 Hay Street:**

From the living room, it is anticipated that the proposed development will result in the loss of three quarters of the view when standing, and almost the entire view when sitting. The impact to this view is **devastating**.

From the dining room, it is anticipated that the ocean views will be half lost when standing and three-quarters lost when sitting. In this instance, the sitting view holds significant weight, given the dining room is predominantly used when sitting. The impact to this view is **severe**.



*Above: The views from the main bedroom (left) and spare bedroom (right) on the ground floor at 34 Hay Street, from standing positions, looking north-east across the subject site.*

From the spare bedroom, it is anticipated that the proposed development will result in the loss of almost the entire view when standing, and that the view will be wholly lost when sitting. The impact to this view is **devastating**.

From the main bedroom, the north-easternmost corridor to the ocean is anticipated to be unaffected by the proposed development. For the remaining ocean views, the proposed development is anticipated to result in the loss of half of the view when standing, and three quarters of the view when sitting. The impact to this view is **severe**.



*Above: The views from the dining room (left - zoomed in) and living room (right) on the ground floor at 34 Hay Street, from standing positions, looking north-east across the subject site.*

From the front porch, it is anticipated that the ocean views will be half lost when standing and three-quarters lost when sitting. In this instance, the sitting view holds significant weight, given the dining room is predominantly used when sitting. The impact to this view is **severe**.



*Above: The view from the front porch on the ground floor at 34 Hay Street, from a standing position, looking north-east across the subject site.*

### **36 Hay Street:**

From the front balcony, living room and main bedroom, the north-easternmost corridor to the ocean is anticipated to be unaffected by the proposed development.

The proposed development is anticipated to obscure the remaining views to the ocean and Long Reef Headland almost entirely when standing, and totally when sitting. The removal of vegetation may open an additional portion of the north-eastern corridor, though only to the ocean's horizon. The impact to these views is **devastating**.





*Above: The views from the front balcony (left) and main bedroom (right) on the ground floor at 36 Hay Street, from standing positions, looking east across the subject site. The view from the living room is comparable to that from the balcony.*

### **38 Hay Street:**

From the balcony and living room, a portion of the north-eastern ocean view corridor is anticipated to be lost, and the remainder of the corridors are anticipated to be wholly lost, from both standing and seated positions. The impact to these views is **devastating**.



*Above: The views from the front balcony (left) and living room (right) on the ground floor at 38 Hay Street, from standing positions, looking east across the subject site.*

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

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

### Comment to Principle 4:

As above, the proposed development results in moderate, severe, and devastating impacts to views for Nos. 32, 34, 36 and 38 Hay Street. It is established throughout this report that the proposed development is subject to a substantial floor space ratio non-compliance. The non-compliance results in a building bulk and scale that is far greater than anticipated for the R2 zone and the character of the locality surrounding the site. Given the permissibility of the development in the R2 zone under the Housing SEPP relies on its compatibility with the character, it is established that the floor space ratio non-compliance is excessive and unacceptable. In addition, the proposed development would result in view loss directly attributable to the bulk and scale created by the floor space ratio non-compliance. In this way, the proposed development does not demonstrate a reasonable sharing of views.

Submissions also raised concern that the proposed development will result in the loss of views from the public domain. In determining the extent of potential view loss from the public domain, the planning principles outlined within the Land and Environment Court case of *Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046* are applied to the proposal.

## 1. Nature and Scope of Views

*The first step is to identify the nature and scope of the existing views from the public domain, including, but not limited to:*

- *Any existing obstructions of the view;*
- *Composition of the view (e.g. is it static or dynamic and, if dynamic, the nature and frequency of changes to the view);*
- *Are existing obstructions permanent or temporary;*
- *The curtilages of important elements within the view.*

### Comment to Principle 1:

The view from Hay Street is a minor corridor to the ocean's horizon. The view is static. Obstructions to the view are existing dwelling houses and vegetation, and are permanent.

## 2. Locations of View Interruptions

*The second step is to identify the locations in the public domain from which the potentially interrupted view is enjoyed.*

### Comment to Principle 2:

The view corridor observed is from a standing position, from the western side of Hay Street, between Nos. 37 and 39 Hay Street. Submissions raise concern that the view from further south along Hay Street will be affected.



*Above: The view from a standing position on the western side of Hay Street, looking east between 37 and 39 Hay Street.*





*Above: The view from the western side of Hay Street looking to the north-east towards the subject site. This photograph is extracted from the submission made by Mr Bill Tulloch. The exact position from which this photograph is taken is unknown.*

### **3. Extent of Obstructions**

*The third step is to identify the extent of the obstruction at each relevant location. The impact on appreciation of a public domain view should not be subject to any eye height constraint. A public domain view is one that is for the enjoyment from many positions by all people.*

#### Comment to Principle 3:

The view between 37 and 39 Hay Street is almost entirely obstructed by existing dwellings and vegetation. This corridor is anticipated to be lost by the proposed development. The view from further south along Hay Street is anticipated to be moderately affected, in that the built form is anticipated to result in loss of view to the ocean, but that removal of vegetation may open up a small portion of view. The views are generally only available to those at fully grown adult height.

### **4. Intensity of the Use of the Relevant Public Spaces**

*The fourth step is to identify the intensity of public use of those locations where enjoyment of the view will be obscured, in whole or in part, by the proposed development.*

#### Comment to Principle 4:

Hay Street is used by residents and their visitors, and cyclists along the shared road. It is not anticipated that casual users of the street spend time observing the view.

### **5. Documentation of the Views**

*The final step to be identified is whether there is any document that identifies the importance of the view to be assessed, such as international, national, state or local heritage recognition, or where the relevant planning controls promote or specifically requires the retention or protection of public domain views.*

#### Comment to Principle 5:

The affected view is not known to be publicly documented, and there are no specific planning controls for the retention of the view.

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

Comment:

The proposed development is not innovative in design, as it does not respond or appropriately address the unreasonable view loss impacts, in managing the proposed bulk and scale.

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

Comment:

The proposed development does not proposed removal of trees with the intention to create views.

The proposed development's adverse impact on views is included as a reason for refusal.

## **D8 Privacy**

The proposed development results in unreasonable visual privacy impacts to the dwellings to the east fronting Pittwater Road (Nos. 987, 989, 991 and 993). The development is considered against the underlying objectives of the control as follows:

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

Comment:

The proposal does not comply with Requirement 1 of this clause as it is not designed to optimise privacy for the occupants of the dwellings to the east. The proposal does not comply with requirement 2 of this clause as it does not orientate living areas, habitable rooms, and windows to limit overlooking. The proposal orientates the living areas and main private open space of the five upper-level units to the east. The floor level of those upper-level units is above that of the dwellings to the east, though not to the extent that it would result in looking over and beyond. The difference in levels will result in direct viewing into the private open spaces of those dwellings. The proposal includes raised private open spaces to the rear, increasing opportunity for overlooking to the east from the ground floor units. The proposal relies on landscaping to the rear to assist with providing privacy, which should not be used in place of good design, as per the planning principle set by *Super Studio v Waverley Council [2004] NSWLEC 91*.

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

Comment:

Given the above, the proposal does not demonstrate innovative design.

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

Comment:

The proposed development does not unreasonably impact upon personal and property security for the subject site or adjoining sites.

The proposed development's impact on the visual privacy of adjoining properties is included as a reason for refusal.

## **D9 Building Bulk**

The proposed development results in a 44.6% variation to the floor space ratio control set by Clause 108(2)(c) of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP'). The resultant building bulk and scale is unacceptable with respect to visual imposition, view sharing, and inconsistency with the low density character of the area. The development is considered against the underlying objectives of the control as follows:

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

*To minimise the visual impact of development when viewed from adjoining properties, streets, waterways*



*and land zoned for public recreation purposes.*

Comment:

The proposed development does not reflect good design and innovative architecture, to the extent that it results in unreasonable visual impact from the visual catchment of the site, including from Anzac Avenue to the east and west, Hay Street to the south and north, and from the eastern side of Pittwater Road at the Anzac Avenue intersection.

The proposed development does not step down with the topography of the site and relies on unreasonable excavation to the extent that it breaches the primary front boundary and rear boundary setback controls.

The proposal does not comply with Requirement 5 of this clause, as it orientates five units to the east towards other residential properties (as detailed in the section of this report relating to Clause D8 Privacy of the WDCP).

The proposal does not comply with Requirement 7 of this clause, as it does not allow for enough landscaping and vegetation to suitably reduce the bulk and scale of the development. Two large native trees are proposed for removal at the southern end of the site. Amendment (reduction) to the design of the development would enable retention of these trees.

The proposal does not comply with Requirement 8 of this clause as it does not provide adequate articulation of the built form to reduce its massing.

The resultant scale of the proposed development is not compatible with the low density residential environment in this area of Collaroy. The proposal presents unreasonable, excessive built form, inconsistent with the character of the area. The subject site is surrounded by one- and two-storey detached dwelling houses in landscaped settings. The proposed development does not suitably break up the built form via architectural design and vegetation such that it is compatible with this existing and desired character, and presents as residential flat building (medium density), which is a prohibited use in the R2 zone.

This is included as a reason for refusal.

## **E1 Preservation of Trees or Bushland Vegetation**

The requirements of Clauses 97, 99, 101 and 106 of the *State Environmental Planning Policy (Housing) 2021* ('Housing SEPP') prevail. The applicable requirements are addressed in the section of this report relating to the Housing SEPP.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2022**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$131,864 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$13,186,380.

## **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 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

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

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

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

Council's assessment has found that:

1) The Applicant's written requests under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of Clause 108(2)(c) of the State Environmental Planning Policy (Housing) 2021 has not adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and

b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will not be in the public interest because it is inconsistent with the objectives of Clause 4.4 of the Warringah Local Environmental Plan 2011 (in the absence of objectives for Clause 108(2)(c) of the State Environmental Planning Policy (Housing) 2021), and the objectives for development within the zone in which the development is proposed to be carried out.

## **PLANNING CONCLUSION**

This application seeks involves the demolition of existing dwellings and construction of a seniors

housing development.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the proposed variation to the floor space ratio development standard being in excess of 10% (proposal is 44.6%) and due to the number of submissions being in excess of 10 (153 submissions were received). The Clause 4.6 variation request is not well founded, as the applicant has not demonstrated that compliance with the development standard is not unreasonable or unnecessary, and insufficient environmental planning grounds were presented in the variation request. Hence, the Clause 4.6 variation is not supported.

Additionally, there are numerous non-compliances with the built form controls under the WDCP 2011 which are not supported.

The concerns raised in the objections are addressed in detail in the section of the report relating to Notification & Submissions Received. Generally, the issues raised in the submissions are concurred with and should be given determining weight.

The critical assessment issues included building bulk, character, setbacks, view sharing, privacy, parking, stormwater management, and water management. The assessment finds that the proposed development is excessive in bulk and scale for the site, resulting in an inconsistency with the character of the R2 Low Density Residential zone, and unreasonable amenity, streetscape, character and view impacts.

It is noted that an appeal has been lodged in the Land and Environment Court against the deemed refusal of this application. Council is in the process of defending the appeal.

The assessment report recommends that the Panel should **REFUSE** the development application for the reasons attached to the recommendation.

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 DA2023/0868 for the Demolition of existing dwellings and construction of a seniors housing development on land at Lot 44 DP 10648,39 Hay Street, COLLAROY, Lot 45 DP 10648,41 Hay Street, COLLAROY, Lot 46 DP 10648,43 Hay Street, COLLAROY, Lot 43 DP 10648,37 Hay Street, COLLAROY, for the reasons outlined 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 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011. The proposal is not compliant with the floor space ratio development standard set by Clause 108(2)(c) of the State Environmental Planning Policy (Housing) 2021. The proposal is supported by a written request to vary the floor space ratio development standard in accordance with clause 4.6 of the WLEP 2011. The written request is not well-founded as it does not satisfactorily demonstrate:
  - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case because it does not achieve consistency with the objectives of the R2 zone or the objectives of the equivalent development standard contained within clause 4.4 of the WLEP 2011 (in the absence of objectives for clause 108 of the Housing SEPP).
  - that there are sufficient environmental planning grounds to justify contravening the development standard because the provided justification is insufficient and disagreed with.
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 Warringah Local Environmental Plan 2011.
3. 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 Zone R2 Low Density Residential of the Warringah Local Environmental Plan 2011.
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 State Environmental Planning Policy (Housing) 2021, with respect to:
  - Inconsistency with the character of the R2 zone and surrounding locality,
  - Excessive floor space and building bulk,
  - Insufficient information relating to building height,
  - Non-compliant setbacks,
  - Insufficient planting,
  - Insufficient information with regard to stormwater management, and
  - Minor design issues with respect to accessibility: location of bathrooms and laundry dimensions.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011, with reference to subclause (b). Insufficient information has been provided to demonstrate that the development will not cause

significant detrimental impacts because of stormwater discharge from the development site.

6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the first three objectives of Clause A.5 Objectives of the Warringah Development Control Plan.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B7 Front Boundary Setbacks of the Warringah Development Control Plan, regarding both the primary street frontage (Hay Street) and secondary street frontage (Anzac Avenue).
8. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B9 Rear Boundary Setbacks of the Warringah Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4 Stormwater of the Warringah Development Control Plan, regarding the provision of onsite stormwater detention (OSD), and the proposed connection to Council's drainage system in Anzac Avenue.
10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C9 Waste Management of the Warringah Development Control Plan, in that it does not provide a bulky goods waste storage area.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D7 Views of the Warringah Development Control Plan 2011, in that it results in view loss to Nos. 32, 34, 2 and 28 Hay Street, attributable the proposed building bulk resulting from the non-compliant floor space ratio.
12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D8 Privacy of the Warringah Development Control Plan. In particular, the proposed development orientates the living areas and main private open space of the five upper-level units to the east and will result in unreasonable overlooking to Nos. 987, 989, 991, and 993 Pittwater Road.
13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9 Building Bulk of the Warringah Development Control Plan. In particular, the proposed development relies on a non-compliant floor space ratio, the results in unreasonable visual impact, view loss, privacy loss, and inadequate landscaping.