

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/0044
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<b>Responsible Officer:</b>	Thomas Prosser
<b>Land to be developed (Address):</b>	Lot 11 DP 12435, 27 Kevin Avenue AVALON BEACH NSW 2107 Lot 10 DP 12435, 25 Kevin Avenue AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Demolition works and construction of Seniors Housing with basement parking
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes, under SEPP Housing 2021
<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>	No
<b>Applicant:</b>	Sean Clive Gartner

<b>Application Lodged:</b>	02/02/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	13/02/2024 to 27/02/2024
<b>Advertised:</b>	13/02/2024
<b>Submissions Received:</b>	98
<b>Clause 4.6 Variation:</b>	<i>SEPP Housing 2021 – Clause 93</i>
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 8,590,453.00
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### EXECUTIVE SUMMARY

This proposal seeks consent for demolition of existing dwellings and construction of a seniors housing development, comprising ten (10) in-fill self-care housing units with 16 basement car parking spaces, lodged under the provisions of *SEPP Housing 2021*.

The application has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to 98 submissions being received and so meeting the trigger of being a *contentious development* that has received "10 or more unique submissions by way of objection". The proposal also meets a second trigger to be referred to the panel, as it contravenes a numerical development standard by more than

10%, which in this case is under Clause 93 of *SEPP Housing 2021*, whereby it exceeds the 400m distance required to access a public transport service. Specifically, the proposal seeks a 10.3% variation to the standard, being a 441m distance to a transport service (south-bound bus stop).

The application was referred to Council's *Design and Sustainability Advisory Panel* who were broadly supportive of the scheme. The Panel suggested a number of minor changes to the plans, most of which have been incorporated into the amended plans; including improvements to deep soil, roof form, and basement configuration.

Council's '*Request for Information*' letter raised a number of issues relating to built form, that have since been addressed through the submission of amended plans and additional information. However, the amended application has not demonstrated that the proposal has adequate and compliant access to a '*transport service*' via a '*suitable access pathway*' in accordance with Clause 93 of *SEPP Housing*. Specifically, Council's Traffic Officer has raised concerns with the safety of a new crossing on Kevin Avenue; due to obscured sight lines, the encroachment of private property, the distance to the transport service, and insufficient details to properly assess the application. Council's Landscape Officer also raised concerns in that there was insufficient information to assess the impact of the proposed footpath on street trees. These issues form the main reasons the application is not supported.

As mentioned above, a variation is sought to the development standard that requires access to a transport service that is no more than 400m from the site (Clause 93 of *SEPP Housing 2021*). The proposal seeks a 441m distance to the south-bound bus service and 415m to the north-bound bus stop. It is noted that a Clause 4.6 request has not been submitted with the application to address the variation. The contravention of the development standard therefore cannot be supported, firstly based on it being a jurisdictional matter, and secondly on the merits of the proposed variation. This is included in the reasons of refusal.

Aside from the issues relating to the footpath access, Council's Natural Environment Officer's and other internal referral bodies are generally supportive of the proposal, and have provided conditions in the event the panel is minded to approve the application.

Council's Traffic Officer has raised issues relating to; a lack of visitor parking, obstruction of accessible parking spaces and a lack of information to enable a full assessment of the application. These issues have been included in the recommended reasons for refusal.

Various concerns have been raised by local residents in the submissions to the notification. In particular, the concerns relate to; increased traffic, lack of suitability of the development, impact of bulk and scale, adverse construction impacts, and detrimental impacts on residential amenity, including visual impact. These matters have been addressed in the body of the assessment report. Notably, amended plans were provided that afforded improvements to the bulk and scale, including the provision of a large indentation in the rear building module, introduction of a green roof over that element, and a greater setback to terraces from side boundaries. These amendments satisfactorily addressed the planning issues relating to character, built form and amenity.

A variation to the front building line control for the entry structure is deemed satisfactory for the reasons outlined in the report including the context of the street, and the significant landscaped front setback. A variation to the side building line control is also assessed as being satisfactory for the reasons outlined in the report, including the lack of amenity impacts and generous landscaped setbacks.

Generally, with the exception of the above variations, the proposal complies with relevant controls under the P21DCP, providing a design that is responsive to the character of the area and the site, and

one that is anticipated by the planning controls.

Overall, the proposal meets the requirements of *SEPP Housing 2021*, with the exception of the key prerequisite for a seniors housing development, being the provision of a suitable means of access to a public transport service under section 93 of the SEPP. This fundamental deficiency is fatal to the proposed development and means the application cannot be supported.

Therefore, it is recommended that the NBLPP refuse the application.

## **PROPOSED DEVELOPMENT IN DETAIL**

The applications seeks demolition of the existing dwellings and construction of a seniors housing development with ten (10) in fill self-care housing units with 16 basement car parking spaces.

In detail, the proposal includes:

- Two 3 bedroom apartments at the ground floor
- Four 3 bedroom and 1 2 Bedroom apartment at Level 1
- Two 3 Bedroom and 1 two bedroom apartment at Level 2
- Various terraces and courtyards
- A new driveway
- Access Pathways
- Landscaping
- Tree Removal

## **Amended Plans**

The application was amended on 24 September 2024 to provide the following changes:

- A 6m x 6m recess provided in the rear module including landscape screening and a green roof
- Reconfiguration of Basement car parking to provide 16 car parking spaces including 10 accessible parking spaces and 1 car wash bay
- Increase to terraces of apartments 03 and 05 to be a 3m setback
- Colours of front right hand building amended from white to grey
- Amended design for OSD
- Relocation of bin storage area
- Opening to entry area
- Central flat roof amended to be a green non-trafficable roof
- All basement garages to have electric charging

The application did not require re-notification in accordance with the Community Participation Plan.

## **ASSESSMENT INTRODUCTION**

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

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

## SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks  
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management  
 Pittwater 21 Development Control Plan - D1.8 Front building line  
 Pittwater 21 Development Control Plan - D1.9 Side and rear building line

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 11 DP 12435 , 27 Kevin Avenue AVALON BEACH NSW 2107 Lot 10 DP 12435 , 25 Kevin Avenue AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of two allotments located on the south-western side of Kevin Avenue.</p> <p>The site (consolidated) is regular in shape with a frontage of 36m along Kevin Avenue and a depth of 76.2m. The site has a surveyed area of 2789m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house on each site. The adjoining properties to the rear are within the C4 Environmental Living zone.</p> <p>The site contains various vegetation, and has a slope from the rear of the property down to the front with a crossfall of approximately 10m.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p>

Adjoining and surrounding development is characterised by residential development.

Map:



## SITE HISTORY

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

A search of Council's records has revealed the following relevant history:

- **DA2018/1066** - Subdivision of one lot into two lots (27 Kevin Avenue), demolition works and construction of a driveway was refused by NBLPP on 23 November 2018. A Class 1 appeal to the court was subsequently dismissed on 18 February 2021.

## PLM2023/0046

A Pre-lodgment meeting for the current application was held on 11 May 2023.

Council experts raised various issues, including advice on addressing Clause 93 of SEPP Housing (Location and Access to Facilities). As discussed throughout this report, this application has not satisfactorily addressed this clause, and this forms a reason for refusal.

In the concluding comments of the pre-lodgment advice, the following advice was given in relation to planning matters:

*Of critical importance are the FSR and upper level setback controls within SEPP (Housing) 2021 that are likely to require significant design changes. The treatment of the front of the site is also important and while it is acknowledged that there are constraints, these need to be designed around."*

Under the current application, the proposal has satisfactorily addressed these issues by providing a significant landscaped front setback, various articulation, breaks, modulation, and setbacks, and an

FSR of 0.47:1 (compliant with the standard under *SEPP Housing*).

Councils Landscape Officer has also stated that the basement configuration was realigned in this application from the pre-lodgment plans, such that the viable and long term retention of existing trees is favourably demonstrated.

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 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 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter could 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 impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 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 Matters for Consideration	Comments
Section 4.15 (1) (c) – the suitability of the site for the development	<p>It has not been demonstrated that the proposed development has access to services and facilities that is consistent with Clause 93 of SEPP Housing 2021.</p> <p>Providing sufficient access to facilities and services is a key precondition to the granting of consent and a critical determinant of whether the site is suitable for this type of development.</p> <p>As such, it has not been satisfactorily demonstrated that the site is suitable for the proposed development in relation to accessibility.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>The applicant has not demonstrated that the proposed development has access to facilities and services in accordance with Clause 93 of <i>SEPP Housing 2021</i>.</p> <p>As such, the proposal is not in the public interest.</p>

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 13/02/2024 to 27/02/2024 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 98 submission/s from:

Name:	Address:
Mrs Susannah Lisa Goudie	45 Careel Head Road AVALON BEACH NSW 2107
Mrs Linda Dujic	13 Kevin Avenue AVALON BEACH NSW 2107
Luke Dujic	13 Kevin Avenue AVALON BEACH NSW 2107
Ms Jade Anderson	54 Kevin Avenue AVALON BEACH NSW 2107
Mr Patrick Michael Whitnall	4 Riviera Avenue AVALON BEACH NSW 2107
Mr Lucas James Perry	10 William Street AVALON BEACH NSW 2107
Claire Suzanne Macewan	8 Wandeen Road CLAREVILLE NSW 2107
Mr Andrew Robert Owens	23 Park Avenue AVALON BEACH NSW 2107
Amy Patricia Dempsey	14 Kevin Avenue AVALON BEACH NSW 2107

<b>Name:</b>	<b>Address:</b>
Ms Skye Beckett	3 Sanctuary Avenue AVALON BEACH NSW 2107
Mr Adam James Pilgrim	28 Elvina Avenue AVALON BEACH NSW 2107
Mr Guy Coburn	131 Cabarita Road AVALON BEACH NSW 2107
Mr David Gwyn Owen	14 Park Avenue AVALON BEACH NSW 2107
Ms Prue Lewington	51 Kevin Avenue AVALON BEACH NSW 2107
Ms Raphael Jean Maufay	28 Towradgi Street NARRAWEENA NSW 2099
Mr Keith Graham Morley	24 Park Avenue AVALON BEACH NSW 2107
Mrs Ruth Jocelyn Hoschke	17 Kevin Avenue AVALON BEACH NSW 2107
Mr Ian John Macintosh Mrs Susan Mary Macintosh	37 Kevin Avenue AVALON BEACH NSW 2107
Mrs Jennifer Anne Reddan	22 Kevin Avenue AVALON BEACH NSW 2107
Jackson Peter England	32 Elvina Avenue AVALON BEACH NSW 2107
Adam Gaebel	25 Wollstonecraft Avenue AVALON BEACH NSW 2107
Ms Neela Diane Sarkar	33 Kevin Avenue AVALON BEACH NSW 2107
Ms Fiona Anne Forsyth	11 Kevin Avenue AVALON BEACH NSW 2107
Mrs Rebekah Chandler	18 Park Avenue AVALON BEACH NSW 2107
Steven Haig	Address Unknown
Mrs Brenda McKenzie Haig	49 Elvina Avenue AVALON BEACH NSW 2107
Mr Ivor Bill Kades	44 Elvina Avenue AVALON BEACH NSW 2107
Christopher Street	30 Kevin Avenue AVALON BEACH NSW 2107
Mr David Francis Clark	20 Wollstonecraft Avenue AVALON BEACH NSW 2107
Sophie Melton	15 A Kevin Avenue AVALON BEACH NSW 2107
Mr Ryan Heath Georgeson	28 Kevin Avenue AVALON BEACH NSW 2107
Mia Shan McLeod	30 Kevin Avenue AVALON BEACH NSW 2107
Mrs Catherine Vale	PO Box 528 AVALON BEACH NSW 2107
Martha Heron	19 Edwin Avenue AVALON BEACH NSW 2107
Simon Lahive	32 Kevin Avenue AVALON BEACH NSW 2107
Mr Nicholas Frank Vale	PO Box 528 AVALON BEACH NSW 2107
Lija Wilson	25 Catalina Crescent AVALON BEACH NSW 2107
Laura Anne Corkill	13 Wollstonecraft Avenue AVALON BEACH NSW 2107
Mrs Josephine Eliza Forster	10 Wollstonecraft Avenue AVALON BEACH NSW 2107
Bill Tulloch	Po Box 440 MONA VALE NSW 1660
Ms Caroline Mary Walsh	230 / 17 Howard Avenue DEE WHY NSW 2099
Mrs Deborah Wendy Mundell	65 George Street AVALON BEACH NSW 2107
Ms Dianne Ruth Docker	48 Kevin Avenue AVALON BEACH NSW 2107
Graeme Douglas Bell	29 Kevin Avenue AVALON BEACH NSW 2107
Ms Kristine Joyce Rynell	62 Kevin Avenue AVALON BEACH NSW 2107
Mrs Margot Helena Paul	43 Patrick Street AVALON BEACH NSW 2107
Mr Iain Allan Leeson	PO Box 470 AVALON BEACH NSW 2107



<b>Name:</b>	<b>Address:</b>
Mr Donald Robert McChesney	45 Kevin Avenue AVALON BEACH NSW 2107
Mr David Alan Taylor	3 William Street AVALON BEACH NSW 2107
Ms Janet Margaret McLean	45 Elvina Avenue AVALON BEACH NSW 2107
Helen Faye Saunders	57 Riviera Avenue AVALON BEACH NSW 2107
Mr Nicholas Hugh Manfield	10 Edwin Avenue AVALON BEACH NSW 2107
Ms Helen Manfield	10 Edwin Avenue AVALON BEACH NSW 2107
Ms Erin Amanda Hopkins	28 Tasman Road AVALON BEACH NSW 2107
Mr Glenn Gordon Cooper	20 Kevin Avenue AVALON BEACH NSW 2107
Mr Scott William Ebsary	42 Kevin Avenue AVALON BEACH NSW 2107
Mr Michael Ian Lapin	1 Harley Road AVALON BEACH NSW 2107
Ms Margaret Lynette Woods	31 George Street AVALON BEACH NSW 2107
Mrs Deborah Elizabeth Denman	8 Urara Road AVALON BEACH NSW 2107
Mrs Lauren May Roberts	717 Barrenjoey Road AVALON BEACH NSW 2107
Meghan Thomson	Address Unknown
Ms Louise Kathryn Mulvey	12 Edwin Avenue AVALON BEACH NSW 2107
Mr Laurie Bombardiere	22 North Avalon Road AVALON BEACH NSW 2107
Mr Klaus Sandles	5 Edwin Avenue AVALON BEACH NSW 2107
Mr David Lorne Macdonald Armstrong	50 George Street AVALON BEACH NSW 2107
Mr Matthew Robert Chandler	46 Kevin Avenue AVALON BEACH NSW 2107
Mrs Catherine Margaret Lee Willsdon	3 / 701 Barrenjoey Road AVALON BEACH NSW 2107
Mr Richard Anthony Kaiser	8 Capri Close AVALON BEACH NSW 2107
Mrs Christine Hawes	Address Unknown
Greg Hawes	2 / 139 - 141 Darley Street West MONA VALE NSW 2103
Mr John Albert Reid	18 Kevin Avenue AVALON BEACH NSW 2107
Kasey Tocchini	25 Whale Beach Road AVALON BEACH NSW 2107
Gay Teresa Willis	21 Kevin Avenue AVALON BEACH NSW 2107
Mrs Zena Debra Carter	5 Lewis Street AVALON BEACH NSW 2107
Mr Richard Quilty	15 Wollstonecraft Avenue AVALON BEACH NSW 2107
Elaine Walls	4 / 701 Barrenjoey Road AVALON BEACH NSW 2107
Mr Christopher John Power	55 Riviera Avenue AVALON BEACH NSW 2107
Mr Joseph Michael Fagan	PO Box 438 AVALON BEACH NSW 2107
Mr Zac Telfer	9 / 10 Prosperity Parade WARRIEWOOD NSW 2102
Mr Leslie Arthur Manning	63 George Street AVALON BEACH NSW 2107
Mr Roger Rowland Treagus	5 / 2 Queenscliff Road QUEENSCLIFF NSW 2096
Mr Geoffrey John Bell	39 Kevin Avenue AVALON BEACH NSW 2107
Mrs Carole Lesley Clerke	38 Kevin Avenue AVALON BEACH NSW 2107
Mr David Ian McTyer	60 Kevin Avenue AVALON BEACH NSW 2107

<b>Name:</b>	<b>Address:</b>
Mr Kazimierz John Saszczak	6 William Street AVALON BEACH NSW 2107
Ms Christina Grace Allen	1 Cutler Road CLONTARF NSW 2093
Mr David Norman Edgley	30 / 5 Ponderosa Parade WARRIEWOOD NSW 2102
Mr Nicholas Ralston Kuner	780 Barrenjoey Road PALM BEACH NSW 2108
Mrs Jennifer Anne Hall	8 Sanctuary Avenue AVALON BEACH NSW 2107
Ms Sherrie Lynn Micallef	18 Brindisi Place AVALON BEACH NSW 2107
Mr Brent Eugene Melton	15 A Kevin Avenue AVALON BEACH NSW 2107
Mrs Charlotte Gillespie	41 Park Avenue AVALON BEACH NSW 2107
Daintry Associates Pty Ltd	5 John Street CRONULLA NSW 2233
Mrs Kylie Ann Bell	39 Kevin Avenue AVALON BEACH NSW 2107
Mrs Susan Christine Martin	19 Hudson Parade AVALON BEACH NSW 2107
Mrs Ingrid Heintz	10 Park Avenue AVALON BEACH NSW 2107
Simone Blake	6 Patrick Street AVALON BEACH NSW 2107
Mr Matthew John Ferguson	61 Kevin Avenue AVALON BEACH NSW 2107

The issues raised in submissions are addressed as follows:

- **Size, density, bulk, scale and character**

The submissions raised various concerns that relate to size, density, bulk, scale and character.

Comment:

The proposal involves a substantial landscaped front setback, and provides a building footprint and height that responds well to the controls. The footprint allows for generous areas of landscaping at all sides of the site, and also allows for a large landscaped corridor through the centre of the site. The built form respects the character of the area by providing a two storey form that steps well with the topography of the site. The proposal is consistent with the desired future character of the area.

As such, the proposal provides a size, density, bulk, scale and response to character that is acceptable.

- **Traffic, parking, safety, and construction impacts**

The submissions raise various concerns with regard to traffic, parking safety and construction impacts.

Comment:

Council's Traffic Officer has provided detailed comments (under the referrals section of this report) and has raised issues related to traffic and parking. The Traffic Officer also states that the application does not provide access to facilities and services in accordance with Clause 93 of *SEPP Housing 2021*. The application is recommended for refusal on this basis, along with

car parking issues (as further discussed in this report).

If the application were to be approved, relevant conditions could be imposed to require adherence to construction hours and to minimise construction impacts.

A condition could also be imposed to require the provision of a Construction and Traffic Management Plan to be approved by Council prior to issue of a Construction Certificate.

The application is recommended for refusal on the basis of the traffic related issues, including the lack of suitable footpath access to the bus stops (in accordance with Clause 93 of the Housing SEPP ) and insufficient car parking.

- **Inappropriate development for the area**

The submissions raised concerns with the type of development for the location and area.

Comment:

The development is permissible on the site under *SEPP Housing 2021*. However, the application has not demonstrated that the development is appropriate for the site, as it has not been shown that access to facilities and services can be provided in accordance with Clause 93 of SEPP Housing 2021, a key pre-requisite for senior's housing development.

This is included as a reason for refusal.

- **Natural environment impacts**

The submissions raised concerns with regard to the proposal's impact on the natural environment.

Comment:

Council's Natural Environment Officer's are generally supportive of the landscape design and the minimisation of impact to the natural environment (subject to conditions if the application were to be approved). Further detail and comments are provided in the Internal Referrals section of this report.

Council's Landscape Officer also stated, *the basement configuration was realigned in this application from the pre-lodgment plans, such that the viable and long term retention of existing trees is favourably demonstrated.*"

However, Council's Landscape Officer cannot support the application, as there has been a lack of information provided to demonstrate the impact of the footpath construction (for access to services and facilities) on street trees. This is included as a reason for refusal.

- **Inappropriate access to bus stop/facilities and services**

The submissions raised concerns that the proposal provides inappropriate access to bus stops/facilities and services.

Comment:

As detailed in this report, it has been found that the application does not comply with Clause 93 of *SEPP Housing 2021*. This forms a reason for refusal.

- **Non-compliance with Planning controls and SEPP requirements**

The submissions raised concerns with regard to inconsistency with planning controls, including SEPP Housing requirements.

Comment:

An assessment in this report is made in relation to non-compliances with applicable planning controls and SEPP requirements. The proposed built form is acceptable in terms of the visual presentation and amenity impacts. However, the application has not demonstrated that access to facilities and services can be provided in accordance with *Clause 93 of SEPP Housing 2021* or that suitable car parking in accordance with *SEPP Housing 2021* and the *Pittwater DCP* has been provided.

- **Amenity impacts**

The submissions raised concerns with amenity impacts on neighbouring properties.

Comment:

The articulation and modulation of the built form, generous landscaped setbacks and adequate physical separation between the building and neighbouring properties, provides a circumstance in which amenity impact is generally well mitigated.

The proposal complies with the requirements for Solar Access under the Pittwater DCP, and provides a suitable design for privacy, as further discussed in the Privacy section of this report (under *SEPP Housing 2021*).

If the development were to be approved, conditions could be imposed for screening and window sill heights.

- **Stormwater impacts**

The submissions raised concerns in relation to Stormwater impacts.

Comment:

Council's Development Engineer has reviewed the application and is satisfied with the design for stormwater, subject to conditions, that can be applied if the application were to be approved.

- **Building Height**

The submissions raised concerns with the building height.

Comment:

The proposal complies with the standard for building height (9.5m) identified under *SEPP Housing 2021*. The SEPP height control prevails over the Pittwater LEP.

**Excavation**

- The submissions raised concerns relating to excavation.

Comment:

The subject site is in an R2 Low Density Residential zone and has a substantial site area and width, such that it is reasonably expected that a basement level can be provided for car parking. The extent of the basement is generally one storey in depth and maintains good setbacks to side boundaries to allow for deep soil planting.

A further assessment has been made under the Earthworks section of this report.

If the application were to be approved, conditions could be imposed to require dilapidation reports and a Construction Management Plan.

- **Inadequate notification**

The submissions raised concerns with the notification of the application.

Comment:

The proposal was notified in accordance with Council's Community Participation Plan and the EPA Regulation 2021.

**REFERRALS**

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p><b>GENERALLY SUPPORTED (SUBJECT TO CONDITIONS AND AMENDMENTS)</b></p> <p><b>General</b></p> <p>This project has been presented to DSAP on two previous occasions and was generally supported at the last Panel meeting. The applicant team has amended the design generally in response to previous Panel comments. This includes the following improvements: reduction in bulk of the rear building; changes to setbacks, articulation of the rear building, retention of trees and a reduction in excavation. However, and in light of some issues that have still to be satisfactorily resolved, the Panel would propose that further design refinements be undertaken.</p> <p><b>Strategic context, urban context: surrounding area character</b></p> <p>The proposed scale complements the surrounding area character. The proposed front street setback is appropriate to the streetscape. The proposal generally relates well to the existing character of the</p>

Internal Referral Body	Comments
	<p>area. The most recent design amendments moved the rear building further from the S-W rear boundary to minimise visual impact, however it is unclear from the drawing set the relationship between the houses at 20 and 22 Park Avenue and the proposed rear building.</p> <p><u>Recommendations</u></p> <p>1. A sectional study showing the topography and locations of the surrounding dwellings would be useful to illustrate the scale in context and the visibility from dwellings at 20 and 22 Park Avenue.</p> <p><b>Scale, built form and articulation</b></p> <p>The site slopes down substantially from the rear to the front of the site. The site and surrounding properties have significant tree canopy cover.</p> <p>The built form complies with the Development Control Plan building envelopes, however within these envelopes the opportunity exists to create built forms that complement the topography and landscape. The proposed built form is comprised of flat and pitched roof forms. The flat and pitched roof forms in the rear building are appropriate as the flat roofs reduce the scale of the building when viewed from the neighbouring properties, and they are barely visible from Kevin Avenue. The two buildings addressing Kevin Avenue are distinctly different to each other, with one having a pitched roof and the other a flat roof. The flat roofed building is more visually prominent than the pitched roof building and does not complement the topography and landscaped setting as well as the pitched roof building. A more cohesive visual character when viewed from the street would be achieved by both buildings having a pitched roof to complement the sloping site and landscaped setting.</p> <p><u>Recommendations</u></p> <p>2. Amend roof form of building containing Apartments 02 and 07 to be similar to the building containing Apartments 01 and 06</p> <p><b>Access, vehicular movement and car parking</b></p> <p>The arrival and entry sequence from the street to all apartments (especially those at the rear) is compromised by the steepness and depth of the site and the decision (one that is also endorsed) to retain as many existing trees as possible. This results in an unfortunate dog-leg path from the porte cochere around the root ball of a tree to lift 1 in the front building. In this instance it would seem unavoidable. Some improvement to sightlines from the porte cochere through to the rear building would be encouraged. This is to make the entry more legible to visitors and residents alike. It is noted that the upper levels of common circulation from lift 1 are open however it is unclear from the elevations how direct and easy it will be to see through. The presence of glass (eg. balustrades) may hinder this by providing glare and reflection. Steel balustrades might provide a better alternative and should therefore be considered.</p>

Internal Referral Body	Comments
	<p>The basement level foyer is important in the experience of the development for residents and visitors. Consider how to make this experience pleasant as the most likely/easy entry given the levels. Space restrictions are noted however the treatment, materiality and detail of these areas could enhance the area.</p> <p>Runs of stairs are significant for access around the site, particularly the front entrance stair. Acknowledging stairs are inevitable given the slope of the site, consider shorter runs to allow rest points at landings which would be more suitable for a Seniors Living development.</p> <p><u>Recommendations</u></p> <p>3. Consider the detailed design of the basement level entry to make this the best possible entry experience for residents and visitors. This could include creating a triangular bin room to allow for a wider glazed wall where the currently proposed bin room door is located.</p> <p>4. Where possible reduce the runs of stairs and integrate more landings to reduce the difficulty of stair access for senior residents. Could be more generous at the junction of the ramped path and stair access to the front entrance. Encouraging the use of the external paths and stairs would be positive for the health and wellbeing of residents.</p> <p><b>Landscape</b></p> <p>Deep soil area of 53% is currently insufficient. Increase deep soil area where possible.</p> <p>The proposed updates to the basement to better allow for the retention of more of the existing trees is a positive adjustment.</p> <p>The provision of the landscape plan with native palette is positive as are the amendments to the front setback area and the extent and design of the private courtyards.</p> <p>The front fencing remains very dominant and appears somewhat 'defensive'. Better integration of the fencing and landscape would improve the site presence in the character of the street and make a more inviting development to residents and visitors.</p> <p>The introduction of some extent of green roof is positive. However, the remaining extensive concrete roofs are a missed opportunity to reduce urban heat, increase sustainability and efficiency of the PV, enhance insulation, membrane longevity, biodiversity and provide better visual amenity to neighbours.</p> <p><u>Recommendations</u></p> <p>5. Extend deep soil in areas such as the Drying Yards to Apartments 03/05. Provide permeable or gravel paving, ground covers etc. Also to terraces of Apartments 03/05. Reconfigure to not encroach into the 3m landscaped setback and locate more over basement areas.</p> <p>6. Provide non trafficable green roofs with irrigation system to proposed flat roofs in rear building in combination with the PV panels to mitigate heat Island effect of roofs and ecological outcomes and</p>

Internal Referral Body	Comments
	<p>stormwater detention.</p> <p>7. Better integrate the front fencing and landscape.</p> <p><b>Amenity</b></p> <p>Enhance the amenity of the basement level entry with more natural light, internal materiality and lighting.</p> <p>Access to the bin room is an amenity issue for the occupants of Seniors Living housing. The current location of the bin room is supported, although its geometry could be reconsidered to enhance the amenity of the basement level entry. An alternative location within 6.5 metres of the front boundary would negatively impact existing trees and the streetscape character of Kevin Avenue.</p> <p><u>Recommendations</u></p> <p>8. Reconfigure and provide further design detail to the basement level entry to enhance amenity, including a more generously sized skylight.</p> <p>9. Retain bin room in currently proposed location and consider re-configuration.</p> <p><b>Façade treatment/Aesthetics</b></p> <p>The roof form of the building containing Apartments 02 and 07 does not complement the topography and landscape setting.</p> <p><u>Recommendations</u></p> <p>10. Amend roof form of building containing Apartments 02 and 07 to be similar to the building containing Apartments 01 and 06</p> <p><b>Sustainability</b></p> <p>With the regulatory environment changing now – for efficiency, electrification, zero emissions and mandatory disclosure – these investments at this time will be worthwhile both for future residents and the developers’ reputation, market position and marketability of the project.</p> <p>With regards to induction cooktops, this healthier and more sustainable approach to cooking will very quickly become the norm as the negative health, cost and sustainability consequences of gas become better understood. Good marketing people should be able to promote this asset.</p> <p><u>Recommendations</u></p> <p>The following aspects of design and servicing can be easily and cost effectively considered for inclusion:</p> <p>11. Decarbonisation of energy supply</p>



Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• All services should be electric – gas for cooking, hot water and heating should be avoided. See note above re cooking.</li> <li>• Heat pump systems or instantaneous electric systems for providing electric hot water should be considered.</li> <li>• The storage of hot water can be considered a de facto battery if heated by PVs during the day.</li> <li>• As much onsite power generation as possible should be included. Additionally, on site battery storage has benefits for the grid and may be a highly desirable back-up during the transition to a de-carbonised grid.</li> <li>• Unshaded roof space is a valuable resource for PV installations. Their efficacy can be greatly enhanced when placed over a green roof, which has additional visual, thermal and ecological benefits. The concrete roof slabs should be designed to include low profile green roofs.</li> </ul> <p>12. EV charging: Provide EV charging points for each unit (Min 15 amp) to suit level 1 charging. Also consider charging and storage for E Bikes and E Mobility Scooters.</p> <p>13. Passive design and thermal performance of building fabric.</p> <ul style="list-style-type: none"> <li>• Higher BASIX thermal performance standards that commenced on 1 October 2023 require an average 7 stars NatHERS, with no unit below 6 stars. Given the coastal location a very comfortable indoor environment should be achievable.</li> <li>• Particular attention is required for the south facing sections of apartments to ensure they meet this requirement.</li> <li>• The inclusion of ceiling fans to all bedrooms and living rooms will provide comfort with minimal energy while reducing the need and energy required for air-conditioning.</li> </ul> <p>14. Water use minimisation</p> <ul style="list-style-type: none"> <li>• All fixtures and appliances should be water (and energy) efficient</li> <li>• Water storage for rainwater from the roofs should be included and plumbed to at least the landscaping and toilets</li> <li>• Landscape design and planting should be water tolerant and suitable for the microclimate</li> </ul> <p><b>PANEL CONCLUSION</b></p> <p>The Panel welcomes and endorses the modifications that have been made to the proposal. However further design refinement is recommended. The Panel would be inclined to support the proposal following the completion of the recommended amendments.</p> <p>The Panel refer the applicant to the Apartment Design Guide for aspects related to amenity and internal planning of apartments.</p> <p><b><u>Assessment Officer's Comments</u></b></p> <p>Since the application was referred to the Design and Sustainability</p>

Internal Referral Body	Comments
	<p>Advisory Panel, the proposal has been amended to address the above issues.</p> <p>Overall, the proposal (as amended) has generally resolved the issues above to the satisfaction of Council's Assessment Officer, and where minor matters have not been specifically resolved, conditions could be imposed if the application were to be approved.</p>
<p>Building Assessment - Fire and Disability upgrades</p>	<p><b>Supported (with 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> <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>Environmental Health (Contaminated Lands)</p>	<p><b>Supported (without conditions)</b></p> <p><u>General Comments</u></p> <p>This application is seeking consent for a proposed seniors housing development at 25-27 Kevin Avenue, Avalon.</p> <p>A review of the properties has not identified concerns in relation to potential contamination onsite. Both properties have been used for residential purposes for extended periods of time. No concerning land uses have been identified. The potential for contamination is low.</p> <p>Environmental Health recommends approval without conditions.</p>
<p>Landscape Officer</p>	<p><b>NOT SUPPORTED:</b> No information on the impact to existing trees along the extent of footpath works is presented. The footpath drawings indicate one tree to be removed and section shows pier footings and land fill (junction of Park Ave and Kevin Ave) in proximity to existing trees within the road reserve verge and thus it is unknown what impacts will occur and/or what tree protection measures are required.</p> <p>Council's Landscape Referral has been reviewed against the following policies and controls:</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Housing) 2021,</li> <li>• Seniors Living Policy: Part 2 Site Planning and Design; Part 3 Impacts on Streetscape; and Part 4 Impacts on Neighbours,</li> <li>• Pittwater 21 DCP controls B4.22 Preservation of Trees and Bushland Vegetation, C1.1 Landscaping, C1.21 Seniors Housing,</li> </ul>

Internal Referral Body	Comments
	<p>and D1 Avalon Locality.</p> <p>It is noted that the submitted Biodiversity Report suggests that the proposal does not trigger entry into the biodiversity offsets scheme, and this matter is to be considered by Council's Bushland &amp; Biodiversity Referral team, and this Landscape Referral may require adjustment should Council's Bushland &amp; Biodiversity Referral approach this matter from a different perspective to the submitted Biodiversity Report.</p> <p>It is noted that the basement configuration is realigned in this application from the pre-lodgement plans, such that the viable and long term retention of existing trees is favourably demonstrated.</p> <p>Deep soil area are adequately provided to the front of the property and the rear of the property, with some to the side boundaries, to either preserve existing trees or provide areas for new canopy tree planting.</p> <p>The submitted Arboricultural Impact Assessment (AIA) report includes recommendations for tree removal, tree retention and tree protection measures based on the submitted development proposal. Should the application be approved a total of nine prescribed native trees are required to be removed. All road reserve trees and trees and vegetation within neighbouring properties shall be protected. Mitigation measures and Project Arborist supervision of works in proximity to existing trees to be retained as recommended in the AIA report shall be the subject of imposed conditions.</p> <p>The Landscape Plans as submitted provide for an enhancement of the landscape setting, and generally no concerns are raised subject to additional tall canopy trees as canopy replacement to offset the existing canopy loss. Many of the proposed new tree planting are small to medium sized trees that, whilst achieving the intent to reduce the bulk and scale of development, do not provide tall canopy that is typical of the locality. Conditions shall be imposed for additional canopy trees within the front of the property where adequate landscape area is available to support such canopy trees, and replacement Turpentine species shall be provided to replace the six existing Turpentine of high retention value proposed for removal.</p> <p>Landscape Referral are able to provide conditions of consent relative to the development site should the application be approved.</p> <p>Other related matters assessed by Landscape Referral: State Environmental Planning Policy (Housing) 2021 requires that residents will have adequate access to facilities and services by a transport service under clause 93, and the application provides two options as documented in the Access Report. Concern is raised with both options, as existing trees are located in proximity to proposed new footpath routes and additionally the existing footpath from the</p>

Internal Referral Body	Comments
	<p>development site to property number 13 is narrow in width and non compliant with the relative requirements for pedestrian access and any widening of the existing footpath will require excavation into existing embankments and impact to existing trees.</p> <p>No information on the impact to existing trees along the extent of footpath works is presented. The footpath drawings indicate one tree to be removed and section shows pier footings and land fill (junction of Park Ave and Kevin Ave) in proximity to existing trees within the road reserve verge and thus it is unknown what impacts will occur and this component is unable to be assessed until such information is provided.</p>
NECC (Bushland and Biodiversity)	<p><b>Supported (with conditions)</b></p> <p>AMENDED COMMENTS</p> <p>Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEE) Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>A letter from an Ecologist has been submitted confirming that no vegetation within the BV Map will be removed and that the area clearing threshold is not met. Therefore, the proposal will not trigger entry into the BOS.</p> <p>An amended Arborist report has been provided and is supportive of retention of trees 12, 52 and 53, pruning of dead limbs is to be undertaken under supervision of a qualified arborist.</p> <p>In addition, the submitted landscape plan includes a range of vegetation that is consistent with applicable biodiversity controls and includes replacement planting. However, amendments will be conditioned to ensure that like for like replacement for trees 9, 54-59 is included.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p>ORIGINAL COMMENTS</p> <p>The proposal has been assessed against the following applicable controls and provisions:</p> <ul style="list-style-type: none"> <li>• NSW Biodiversity Conservation Act 2016</li> <li>• NSW Biodiversity Conservation Regulation 2017</li> <li>• Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection</li> <li>• Pittwater 21 DCP - B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land</li> </ul>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• Pittwater 21 DCP - B4.6 Wildlife Corridors</li> </ul> <p>Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (DCCEEW) Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).</p> <p>The proposal has been submitted with an arborist report that has assessed the condition of a total of 63 trees and recommended the removal of a total of 11 (9, 12, 51-59) trees which are all prescribed. Trees 51, 52 and 53 are proposed for removal and appear to be mapped within the BV Map.</p> <p>A letter from an ecologist has been submitted as evidence to confirm that entry into the BOS is not triggered by the proposal and states "The proposal does not require the clearing of native vegetation and other biodiversity impacts prescribed by clause 6.1 of the Biodiversity Regulation 2017 on land identified on the BV Map and therefore, does not trigger entry into the BOS."</p> <p>Upon review of the submitted information inconsistencies between the Ecologist's letter and the submitted plans showing the removal of native vegetation have been identified and require clarification. A site inspection conducted on 14/02/2024 confirmed that no native groundcovers and midstorey are present as established in the submitted Ecologist's letter. However, trees 51, 52 and 53 appear to be found within the BV Map area and their removal would trigger entry into the BOS and the requirement of a BDAR.</p> <p>These impacts have to be reviewed and corroborated by the ecologist. If the review determines that these trees are indeed mapped within the BV Map a BDAR will have to be prepared by an accredited assessor and submitted with the application once it has been finalised. The Biodiversity referral will recommence upon reception of comments of the reviewed impacts to the BV Map area.</p>
NECC (Development Engineering)	<p><b>Supported (with conditions)</b></p> <p>Development engineering has reviewed the submitted stormwater management and architectural plans. The comments are:</p> <ol style="list-style-type: none"> <li>1. The OSD system is to be designed in accordance with Council's Water Management for Development Policy.</li> <li>2. The proposed tank must be located in an area that provides 24 hour external access and must not be located under habitable floors as per pre-lodgment meeting advice.</li> </ol>

Internal Referral Body	Comments
	<p>3. Amend stormwater management plans to provide a plan of OSD basin with levels providing a minimum 1% grade in all directions.</p> <p>4. Provide a catchment plan, showing all areas draining to OSD basin and any by-pass.</p> <p>5. Provide a longitudinal section of all pipe(s) from the OSD basin to the discharge point showing calculated flows, velocities, pipe sizes, type and class, grades, and invert levels of all pipes, all utility services crossings and a hydraulic grade line (where required).</p> <p><b>Engineering Comments 15.11.24</b> Amended stormwater plans have been provided, which are acceptable. Development engineering has no further objections to the proposed development, subject to conditions and subject to concurrence from the Traffic section that appropriate pedestrian access facilities have been provided. DRAFT conditions provided. These will be confirmed once Council's Traffic Section is satisfied with the proposal.</p>
NECC (Water Management)	<p><b>Supported (with conditions)</b></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>• Supplied plans and reports;</li> <li>• Northern Beaches Water Management for Development Policy (WMD Policy); and</li> <li>• Relevant LEP and DCP clauses</li> </ul> <p>Proposal is for demolition and construction of a seniors housing development and associated landscaping.</p> <p>The stormwater management system proposed includes rainwater tank, on-site detention, stormfilter system and bioretention system. No objections regarding water management.</p>
Traffic Engineer	<p><b>Not supported</b></p> <p><b>Further Comments - dated 13/11/2024</b></p> <ul style="list-style-type: none"> <li>• It is noted that an amended master set has been provided dated 25/06/2024, followed by amended traffic report dated 28th June 2024, footpath access plan dated 25/06/2024 and amended access report dated 24th September 2024.</li> <li>• It is noted that the basement layout has been redesigned to provide a total of 16 car parking spaces including 10 accessible parking spaces and 1 car wash bay. The proposed 16 car parking spaces do not satisfy the car parking requirements of minimum 18 spaces as per DCP and SEPP as SEPP requires a minimum of 14 resident parking spaces and DCP requires a minimum of 4 visitor parking spaces, including one accessible parking space for visitors and a car wash bay for residents. Hence, the proposed layout results in a shortfall of 2 car parking spaces which have not been</li> </ul>

Internal Referral Body	Comments
	<p>justified in the amended traffic report. For more details on car parking requirements, please refer to the original traffic comments dated 16th May 2024.</p> <ul style="list-style-type: none"> <li>• It is noted that the amended proposal provides 10 accessible parking spaces with a shared zone. However, some of the accessible parking spaces which are provided within the double garage have door running through the shared zone, which results in obstructed access for wheelchairs. The door which is blocking shared zone must be removed and a bollard must be placed in the shared zone to prevent parking on the shared zone.</li> <li>• It is noted that the amended traffic report has provided a swept path analysis for car wash bay as requested in the original comments, however other requested swept paths are still missing. Other swept paths like B85 passing B99 on the driveway and access ramp must be provided. Also, the ramp leading to further parking spaces (no. 9 to 16) is a single ramp. Hence, it must be demonstrated with swept path that where a vehicle would prop to give way to entering vehicle and the entering vehicle can go around the propped vehicle. The waiting bay must be marked and convex mirror must be shown on the plans.</li> <li>• It is noted that a footpath access plan has been provided to show a continuous path of travel from the site to bus stops on Barrenjoey Rd (south of Central Rd) using existing and proposed footpaths. This plan is similar to the plan provided to Council on 28th June and 26th August, where Council's traffic engineer has already provided comments. Although with some modifications, this plan is still unacceptable because of following reasons: <ul style="list-style-type: none"> <li>• The proposed plan exceeds the requirement of path of travel of minimum 400m as per SEPP to both the bus stops.</li> <li>• The proposed plan includes crossing Kevin Avenue, north of Park Avenue at an unsafe location where sight lines are obscured by the crest.</li> <li>• The proposed plan includes lots of relocation of signs but have not clearly shown where they will be relocated to.</li> <li>• The plan shows a relocation of telstra pit, but there are no details supporting this relocation. Council believes that the applicant needs an approval from the Telstra before proposing a relocation.</li> <li>• The proposed footpath works appear to partially encroach within the boundaries of no. 701-703, which cannot be accepted unless the developer purchases the strip of land from the property owner of no. 701-703. The amended survey still dated as 2019 and showing lawn instead of footpath outside no. 701-703, shows an incorrect boundary line of no. 701-703.</li> </ul> </li> <li>• The proposed kerb ramp at the intersection of Central Road and Barrenjoey Rd includes modifications to existing</li> </ul>

Internal Referral Body	Comments
	<p>stormwater kerb inlet. However, there are no detailed design provided for this modification. Since the proposed work on existing lintel is the matter for Council's Development Engineering or stormwater engineering team, the traffic team does not provide any comments on it but relies on the other teams for the assessment of proposed modifications.</p> <p>Given the number of issues outlined above, the DA remains unsupported.</p> <p><b>Original Comments - dated 16/05/2024</b>  <b>Proposal Description:</b> Proposed Seniors Housing at 25-27 Kevin Avenue, Avalon Beach</p> <p>The Traffic Team has reviewed the following documents:</p> <ul style="list-style-type: none"> <li>• Plans (Master Set) - revision A, prepared by Gartner Trovato Architects, dated 23/10/2023</li> <li>• Traffic and Parking Assessment Report (ref:23029), prepared by Terrafic Pty Ltd, dated 19th September 2023</li> <li>• Footpath Survey (ref: 21372), prepared by Bee &amp; Lethbridge, dated August 2019</li> <li>• Access Report, prepared by Accessibility Solutions dated 7<sup>th</sup> December 2023</li> <li>• The Statement of Environmental Effects, prepared by BBF Townplanners, dated November 2023</li> <li>• Pre-Lodgement Advice (PLM2023/0046) dated 11 May 2023</li> </ul> <p><b>Comments</b></p> <ul style="list-style-type: none"> <li>• The architectural plans and SEE report show that there are 8 x 3-bed and 2x 2-bed self-care housing units resulting in a total of 28 bedrooms. However, the traffic report mentions there are 10 x 3-bed units resulting in a total of 30 bedrooms and carries out the car parking requirements based on 30 beds. The traffic report must be updated to be consistent with the architectural plans and SEE report.</li> <li>• The basement carpark is reported to provide for 21 car parking spaces however, as discussed below, given the way the carpark is currently designed it can not be considered to provide any more than 12 car parking spaces, however could be adapted to provide more. This is discussed further below.</li> </ul> <p><u>Property Access</u></p>



Internal Referral Body	Comments
	<ul style="list-style-type: none"> <li>• The vehicle access is provided from Kevin Avenue. The traffic report on page 7 states that “The two-way accessway has a minimum width of 6.1m comprising a 5.5m wide roadway and 2 x 300mm wide kerbs”. However, these dimensions are not annotated on the plans. Hence, the width of driveway and carpark access ramp must be shown on the plans.</li> <li>• The traffic report has not provided any swept path analysis. A swept path analysis must be provided to demonstrate a passing of a B85 and B99 vehicle on the driveway and access ramp in compliance with AS/NZS2890.1 Clause 2.5.2 (c). Also, swept path analysis must be provided to demonstrate access to critical spaces such as the car wash bay.</li> </ul> <p><u>Parking</u></p> <ul style="list-style-type: none"> <li>• According to the clause 108(k) of SEPP Housing 2021, the non-discretionary parking requirement for independent living units is a minimum of 0.5 spaces per bedroom. Therefore, the proposed development is required to provide a minimum of 14 car parking spaces for the proposed 28 bedrooms. It is proposed that the development will provide 20 residential car parking spaces which would comfortably exceed the minimum requirement of 14 spaces. However, as the plans show 10 of the spaces as being accessible, for compliance with AS2890.6 these spaces would need to be at least 2.4m in width with a 2.4m min hatched shared space adjacent. It is not therefore appropriate for all of these spaces to be shown on the plans as being accessible, merely that they be demonstrated to be capable of conversion to accessible spaces in compliance with SEPP Housing schedule 4 Part 1 clause 4(2).</li> <li>• It is noted that all the ten units are provided with a marked accessible parking space, nine of these inside a double garage with an adjacent regular parking space. According to AS2890.6, an accessible parking space is to be 2.4m wide by 5.4m long with a hatched shared zone of same dimensions. The shared zone is to have a bollard to prevent it from being used as a parking space. The proposed accessible parking spaces do not comply with AS 2890.6 as they do not have a marked shared zone with hatching. Moreover, if the adjacent spaces are marked as shared zone, the total number of car parking spaces will be reduced to 12 spaces only and this number will not satisfy the car parking requirement. It is noted that SEPP Housing Schedule 4, Part 1 clause 4(5) does not require the international symbol for disabled access to be provided at the spaces however clause 4 (2)(c) requires that a minimum of 15% of the parking spaces comply with AS 2890.6 with 50% being either compliant or at least 3.2m in width and having a level surface with a maximum gradient of 1:40 in any direction. The developer therefore needs to adjust</li> </ul>

Internal Referral Body	Comments
	<p>the parking area plans to nominate which spaces are the designated compliant accessible parking spaces and adjust the parking numbers to reflect SEPP requirements. Also, a minimum of 2.5m headroom clearance must be provided at accessible spaces in compliance with AS2890.6. The traffic report must be updated to confirm that the minimum 2.5m headroom clearance at accessible parking spaces is available. At present the traffic report only states min 2.2m headroom clearance throughout the basement (page 7).</p> <ul style="list-style-type: none"> <li>SEPP Housing 2021 does not provide guidance in terms of the number of visitor parking spaces but does note in Schedule 4, Part 1 clause 4(4) that at least 5% of any visitor parking must comply with AS/NZS2890.6. The provision of visitor parking is therefore assumed and for a housing development there will clearly be a need for visitor parking in addition to the residential parking requirements. As the SEPP does not detail a visitor parking requirement, the Pittwater DCP has been referenced and requires visitor parking to be provided at a rate of 1 space for every 3 dwellings (rounded up), which means a minimum of 4 visitor spaces are required for the proposed ten dwellings of which at least one must be accessible (for compliance with SEPP Housing Schedule 4, Part1 clause 4(4)). The single proposed visitor parking space does not satisfy this requirement. Furthermore, the present location of the visitor/car wash bay looks inaccessible due to less manoeuvring area. Hence, a swept path for the B85 vehicle ingressing and egressing this space must be provided.</li> <li>Dimensions of car parking spaces must also be shown on the plans.</li> </ul> <p><u>Access to Transport</u></p> <ul style="list-style-type: none"> <li>It is noted that an access report has been provided for the proposed development, the access report provides two options for footpath access to bus stops, to shops and services to demonstrate compliance with SEPP Housing clause 93. Option A refers to minor works to add drainage grates to bridge the gutter to enable the wheelchair access and construction of a new footpath to connect with an existing footpath adjacent to a recently completed seniors housing development. However, no further details have been provided on the proposed connection over the speed hump and grades along the existing and proposed footpaths. Council does not believe it is appropriate to rely upon crossing over the speed hump unless it is formally upgraded to a raised marked pedestrian crossing. Unless this is done, such use would be contrary to the Austroads Guide to Traffic Management Part 8 which recommends physical barriers be provided to prevent use of flat topped speed humps as pedestrian crossings unless they are approved and marked as a pedestrian crossing. Also, it is understood that the applicant is relying on</li> </ul>

Internal Referral Body	Comments
	<p>the new footpath built outside No.701-703 Barrenjoey Road to be used by the people in wheelchairs, however, no grades on this section have been checked. Council has concerns that this section has steeper grades and would not be suitable for use by wheelchairs. The Seniors housing development at No. 701-703, has provided a widened footpath, but relies upon an accessible path of travel located within the property boundary and the publicly accessible footpath has not been reviewed in terms of its acceptability under the current SEPP. Hence, Council requests the applicant to revise their access report and provide advice on the footpath and ramp grades and crossfalls, both proposed and existing, that the application relies upon.</p> <ul style="list-style-type: none"> <li>• It is noted that the footpath survey has been provided. However, the survey is dated 2019 and still shows nature strip in the place of recently constructed footpath outside the recently constructed SEPP Housing at No. 701-703. Council requires up to date survey information with footpath gradient details plotted throughout the travel routes for pedestrian access to the bus stops. Furthermore, Council has concerns with regard to the existing widths of existing footpaths along Kevin Avenue for use by wheelchairs or mobility scooters. The widths must be checked and confirmed on the plans and if inadequate widened to min 1.5m to comply with Council's current footpath standard. A detailed plan showing widened footpath with levels and gradients throughout the path of travel must be provided.</li> <li>• The proposed route called option B in the access report proposes an access route to bus stops that is within 400m of the development as required by the SEPP but relies upon access through a drainage reserve and Right of Way between No.s 22 and No. 24 Kevin Avenue. This grassed and treelined strip of land currently has no footpath however it is considered unlikely that that a compliant footpath could be constructed along this strip of land as the grades appear to be in excess of the required 1 in 14. The Option B route also relies upon use of the bus stop on the eastern side of Barrenjoey Road near Wollstonecraft Avenue. Sealed and appropriately graded access to that bus stop does not appear to be available as the bus stop is at a different level to the adjacent footpath. Any person in a wheelchair or motorised scooter travelling on this footpath would not be able to reach the bus stop without travelling over the driveway and grassed nature strip or onto the road. Option B is unlikely to be an acceptable route option.</li> </ul> <p><u>Sight lines</u></p> <ul style="list-style-type: none"> <li>• The adequacy of sight lines to pedestrians and vehicular traffic at the point where the driveway exits the property have not been demonstrated. This is required for compliance with AS2890.1 clause 3.2.4.</li> </ul>

Internal Referral Body	Comments
	<p><u>Conclusion</u></p> <p>The application is not supported at this stage with further information as outlined above required prior to further consideration of the proposal.</p>
Waste Officer	<p><b>Supported (subject to conditions)</b></p> <p>Waste Management Assessment - provided to Council 25/6/24.</p> <p>Proposed arrangement for bin holding bay at front of property with permanent bin bay in basement acceptable to Waste Services.</p> <p>The only issue that needs to be addressed is the door to the bulky goods room:</p> <ul style="list-style-type: none"> <li>• The door must open outwards (currently opens inwards).</li> <li>• The door must be 1200mm wide.</li> </ul> <p>I will condition the above design requirements for the bulky goods room door.</p> <p>Waste Management Assessment Unsupported. The proposal is unacceptable.</p> <p>Specifically: The waste bin storage room is too far from the property boundary with the street. The maximum distance Council permits is 6.5 metres. Council may vary this distance for severely constrained sites. As this site is not constrained, going beyond 20 metre walking distance, as with this application, will not be accepted.</p> <p>There is ample opportunity to locate a bin storage room at the front of the property adjacent to the entrance pavilion (which has a roof) or between the stairs and the path leading to the basement.</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 could be included in a condition of consent, if the application were to be approved.

### 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 (Sustainable Buildings) 2022**

A BASIX certificate has been submitted with the application (see Certificate No. 1426950M).

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

#### **SEPP (Housing) 2021**

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

#### **Division 3 Development Standards**

<b>Clause 84 – Development Standards (General)</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
(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> .	<b>Complies</b> The site has a surveyed area of 2,789sqm
(b) The frontage of the site area of the development is at least 20m measured at the building line.	<b>Complies</b> The frontage of the site area to Kevin Avenue is 36.6m.
(c) for development on land in a residential zone where residential flat buildings are not permitted: <ul style="list-style-type: none"> <li>(i) the development will not result in a building with a height of more than 9.5m,</li> <li>(ii) excluding servicing equipment on the roof of the building, and</li> <li>(iii) 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 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>	<u>Height</u> <b>Complies</b> - 8.8m  <u>Envelope</u> <b>Complies</b> The proposed development has two storeys and a basement level.

(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.	<b>Complies</b>
(b) be limited to an area of no more than 20% of the surface area of the roof.	<b>Complies</b>
(c) not result in the building having a height of more than 11.5m.	<b>Complies</b>

<b>Clause 85 – Development Standards for Hostels and Independent Living (Self-Care) Units</b>	
<b>Standard</b>	
(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, sections 2, 5–13 and 15–21 if the development application is made by, or by a person jointly with, a social housing provider or Landcom.	

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) <b>Wheelchair access</b> 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 to an adjoining public road.	<b>Complies</b> Outdoor pathways and lifts provide continuous access.
(2) If the whole of the site does not have a gradient of less than 1:10: <ul style="list-style-type: none"> <li>(a) the percentage of dwellings that must have wheelchair access must equal the</li> <li>(b) proportion of the site that has a gradient of less than 1:10, or 50% (whichever is greater), and the wheelchair access provided must be by a continuous accessible path of travel to an adjoining public road or an internal road or a driveway that is accessible to all residents.</li> </ul>	N/A as (1) applies
(3) <b>Common areas</b> 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.	<b>Complies</b> Lobby and basement is accessible by lift.
<b>Section 3 - Letterboxes</b>	
Letterboxes:	<b>Complies</b>

<ul style="list-style-type: none"> <li>(a) must be located on a hard standing</li> <li>(b) area, and</li> <li>(c) must have wheelchair access by a continuous accessible path of travel from the letterbox to the relevant dwelling, and</li> <li>must be lockable by a lock that faces a wheelchair accessible path.</li> </ul>	
<b>Section 4 - Carparking</b>	
<p>(1) If parking spaces attached to or integrated with a class 1 building under the Building Code of Australia are provided for use by occupants who are seniors or people with a disability, at least 1 parking space must:</p> <ul style="list-style-type: none"> <li>(a) be at least 3.2m wide, and</li> <li>(b) be at least 2.5m high, and</li> <li>(c) have a level surface with a maximum gradient of 1:40 in any direction, and</li> <li>(d) be capable of being widened to 3.8m without requiring structural modifications to a building.</li> </ul>	N/A
<p>(2) If parking spaces associated with a class 1, 2 or 3 building under the Building Code of Australia are provided in a common area for use by occupants who are seniors or people with a disability, the following applies:</p> <p>(a) for a parking space not in a group—the parking space must comply with AS/NZS 2890.6,</p>	<p><b>Does not comply</b></p> <p>Council's Traffic Officer has stated that some of the accessible spaces have a garage door running through the shared zone which restricts access.</p>
<p>(b) for a group of 2–7 parking spaces:</p> <ul style="list-style-type: none"> <li>(i) at least 1 of the parking spaces must comply with AS/NZS 2890.6, and</li> <li>(ii) 50% of the parking spaces must: <ul style="list-style-type: none"> <li>(A) comply with AS/NZS 2890.6, or</li> <li>(B) be at least 3.2m wide and have a level surface with a maximum gradient of 1:40 in any direction,</li> </ul> </li> </ul>	<p><b>Does not comply</b></p> <p>As above</p>
<p>(c) for a group of 8 or more parking spaces—</p> <ul style="list-style-type: none"> <li>(i) at least 15% of the parking spaces must comply with AS/NZS 2890.6, and</li> <li>(ii) at least 50% of the parking spaces must— <ul style="list-style-type: none"> <li>(A) comply with AS/NZS 2890.6, or</li> <li>(B) be at least 3.2m wide and have a level surface with a maximum gradient of 1:40 in any direction.</li> </ul> </li> </ul>	N/A
<p>(3) To avoid doubt, a parking space that complies with AS/NZS 2890.6 is only counted toward 1 of the requirements in subsection (2)(b)(i) or (ii) or (c)(i) or (ii).</p>	
<p>(4) At least 5% of any visitor parking spaces must comply with AS/NZS 2890.6.</p>	<p>No visitor car parking provided. See Council's Traffic Officer comments stating that visitor car parking is required in accordance with requirements under Pittwater DCP for off-street parking.</p>

<p>(6) If multiple parking spaces are accessible by a common access point, the access point must be secured by a power-operated garage door, vehicle gate, vehicle barrier or similar device.</p>	<p><b>Capable of compliance by condition</b></p>
<p>(7) A parking space, other than a parking space under subsection (6), must be—</p> <p>(a) secured by a power-operated door, or</p> <p>(b) capable of accommodating the installation of a power-operated door, including by having—</p> <p>(i) access to a power point, and</p> <p>(ii) an area for motor or control rods for a power-operated door.</p>	<p><b>Capable of compliance by condition</b></p>
<p><b>Section 5 - Accessible Entry</b></p>	
<p>(1) The main entrance to a dwelling must have:</p> <p>(a) a clear opening that complies with AS 1428.1, and</p> <p>(b) a circulation space in front of the door and behind the door that complies with AS 1428.1.</p>	<p><b>Complies</b></p>
<p><b>Section 6 - Interiors</b></p>	
<p>(1) An internal doorway must have an unobstructed opening that complies with AS 1428.1.</p>	<p><b>Complies</b></p>
<p>(2) An internal corridor must have an unobstructed width of at least 1,000mm.</p>	<p><b>Complies</b></p>
<p>(3) The circulation spaces in front of and behind an internal doorway in the following areas must comply with AS 1428.1—</p> <p>(a) a kitchen,</p> <p>(b) a laundry,</p> <p>(c) a bathroom,</p> <p>(d) a toilet,</p> <p>(e) a bedroom,</p> <p>(f) a living area,</p> <p>(g) the main area of private open space.</p>	<p><b>Complies</b></p>
<p><b>Section 7 - Bedroom</b></p>	
<p>At least 1 bedroom within each dwelling must have:</p> <p>(a) a clear area, not including a circulation space, sufficient to accommodate—</p> <p>(i) for a hostel—a wardrobe and a single-size bed, or</p> <p>(ii) for an independent living unit—a wardrobe and a queen-size bed,</p> <p>(b) a clear area around the area for the bed of at least—</p> <p>(i) 1,200mm at the foot of the bed,</p> <p>(ii) and</p>	<p><b>Complies</b></p>



<p style="text-align: center;">1,000mm on each side of the bed,</p> <p>(c) at least 2 double general power outlets on the wall where the head of the bed is likely to be,</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.</p>	
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**Section 8 - Bathroom**

<p>(1) At least one bathroom in a dwelling must be located on:</p> <ul style="list-style-type: none"> <li>(a) the same floor as the entry to the dwelling, or</li> <li>(b) a floor serviced by a private passenger lift accessible only from inside the dwelling</li> </ul> <p>(2) The bathroom must have the following:</p> <ul style="list-style-type: none"> <li>(a) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586</li> <li>(b) —2013,</li> <li>(c) a washbasin with tap ware capable of complying with AS 1428.1, including by future adaptation if the washbasin and tap ware</li> <li>(d) continue to use existing hydraulic lines,</li> <li>(e) a shower that— <ul style="list-style-type: none"> <li>(i) is accessible without a shower-hob or step, and</li> <li>(ii) complies with the requirements of AS 1428.1 for the entry, circulation space, floor gradient to the wastewater outlet and location of the mixer tap, and</li> <li>(iii) is in the corner of a room, and</li> <li>(iv) has a wall capable of accommodating the installation of a grab rail, portable shower head with supporting grab rail and shower seat, in accordance with AS 1428.1,</li> <li>a wall cabinet with shelving illuminated by an illumination level of at least 300 lux,</li> <li>a double general power outlet</li> </ul> </li> </ul>	<p><b>Complies and capable to comply</b></p>
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<p>in an accessible location, in accordance with AS 1428.1.</p>	
<p><b>Section 9 - Toilet</b></p>	
<p>(1) At least one toilet in a dwelling must be located on— (a) the same floor as the entry to the dwelling, or (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.</p>	<p><b>Complies</b></p>
<p>(2) The toilet must have the following— (a) a water closet pan— (i) in the corner of the room, and (ii) with a centreline set-out in accordance with AS 1428.1, (b) a circulation space in front of the water closet pan that is— (i) at least 1,200mm long and at least 900mm wide, and (ii) clear of door swings and fixtures, other than a toilet paper dispenser or grab rails, (c) a circulation space around the water closet pan that complies with AS 1428.1, (d) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013, (e) a wall capable of accommodating the installation of a back rest and grab rail that will comply with AS 1428.1. (3) A removable shower screen may be located in the circulation space specified in subsection (2) (c).</p>	<p><b>Complies</b></p>
<p><b>Section 10 - Surfaces of balconies and external paved areas</b></p>	
<p>Balconies and external paved areas must have surfaces that are slip resistant and comply with— (a) the Building Code of Australia, or (b) the Standards Australia Handbook SA HB 198:2014, Guide to the specification and testing of slip resistance of pedestrian surfaces, published on 16 June 2014.</p>	<p><b>Capable of compliance</b></p>
<p><b>Section 11 - Door Hardware</b></p>	
<p>(1) Door handles and hardware for all doors, including entry doors and external doors, must comply with AS 1428.1.</p>	<p><b>Capable of compliance</b></p>
<p><b>Section 12 - Switches and power points</b></p>	
<p>(1) Switches and power points must— (a) comply with AS 1428.1, or (b) be capable of complying with AS 1428.1 through future adaptation.</p>	<p><b>Capable of compliance</b></p>
<p><b>Section 13 - Private passenger lifts</b></p>	

<p>(2) The private passenger lift must—</p> <p>(a) be at least 1,100mm wide and at least 1,400mm long, measured from the lift car floor, and</p> <p>(b) have a clear indoor landing on all floors serviced by the lift, other than the floor on which the main area of private open space is located, at least 1,540mm long and at least 2,070mm wide, and</p> <p>(c) have controls that comply with—</p> <p>(i) AS 1735.12:2020, Lifts, escalators and moving walks, Part 12: Facilities for persons with disabilities, published on 26 June 2020, or</p> <p>(ii) AS 1735.15:2021, Lifts, escalators and moving walks, Part 15: Safety rules for the construction and installation of lifts — Special lifts for the transport of persons and goods — Vertical lifting platforms intended for use by persons with impaired mobility, published on 23 July 2021.</p> <p>(3) The width of the door opening of the private passenger lift must be at least 900mm.</p> <p>(4) The private passenger lift must not be a stairway platform lift.</p>	<p><b>Complies</b></p>
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<p><b>Part 2 - Additional Standards for Independent Living Units</b></p>	
<p><b>Section 15 - Bedroom</b></p>	
<p>At least one bedroom in an independent living unit that complies with this schedule, section 7 must be located on:</p> <p>(a) the same floor as the entry to the unit, or</p> <p>(b) a floor serviced by a private passenger lift accessible only from inside the unit.</p>	<p><b>Complies</b></p>
<p><b>Section 16 - Access to kitchen, Main Bedroom, Bathroom and Toilet</b></p>	
<p>(1) A living room in an independent living unit must be located on—</p> <p>(a) the same floor as the entry to the dwelling, or</p> <p>(b) a floor serviced by a private passenger lift accessible only from inside the dwelling.</p>	<p><b>Complies</b></p>
<p>(2) The living room must have—</p> <p>(a) a circulation space that—</p> <p>(i) is clear of all fixtures, and</p> <p>(ii) has a diameter of at least 2,250mm, and</p> <p>(b) a telecommunications or data outlet adjacent to a general power outlet.</p>	<p><b>Complies</b></p>
<p><b>Section 17 - Main area of private open space</b></p>	
<p>The main area of private open space for an independent living unit must be located on:</p> <p>(a) the same floor as the entry to the dwelling, or</p> <p>(b) a floor serviced by a private passenger lift accessible only from inside the dwelling.</p>	<p><b>Complies</b></p>

<b>Section 18 - Kitchen</b>	
<p>(1) A kitchen in an independent living unit must be located on:</p> <p>(a) the same floor as the entry to the dwelling, or</p> <p>(b) a floor serviced by a private passenger lift accessible only from inside the dwelling.</p>	<b>Complies</b>
<p>(2) The kitchen must have a circulation space with a diameter of at least 1,200mm between each bench top, cupboard or large appliance and each other bench top, cupboard or large appliance.</p>	<b>Complies</b>
<p>(3) Each circulation space specified in subsection (2) must be capable of being increased to a diameter of 1,550mm without—</p> <p>(a) relocating the sink, or</p> <p>(b) moving a load-bearing wall, or</p> <p>(c) breaching another circulation requirement.</p>	<b>Complies</b>
<p>(4) The kitchen must have the following fittings—</p> <p>(a) a bench that includes at least one work surface that is—</p> <p>(i) at least 800mm long, and</p> <p>(ii) clear of obstructions, and</p> <p>(iii) not in the corner of the room,</p> <p>(b) a lever tap set with the lever and water source that is within 300mm of the front of the bench,</p> <p>(c) a cooktop next to the work surface,</p> <p>(d) an isolating switch for the cooktop,</p> <p>(e) an oven that—</p> <p>(i) has operative elements between 450mm and 1,250mm above the finished floor level, and</p> <p>(ii) is next to the work surface,</p> <p>(f) at least one double general power outlet located within 300mm of the front of a work surface.</p>	<b>Complies</b>
<p>(5) The cupboards must—</p> <p>(a) not be entirely located in the corner of the bench or the corner of the room, and</p> <p>(b) face where the user of the fixture is likely to be.</p>	<b>Complies</b>
<p>(6) An overhead cupboard in the kitchen must be capable of being fitted with “D” pull cupboard handles towards the bottom of the cupboard.</p>	<b>Capable of compliance</b>
<p>(7) A below-bench cupboard in the kitchen must be capable of being fitted with “D” pull cupboard handles towards the top of the cupboard.</p>	<b>Capable of compliance</b>
<p>(8) The lever tap set, cooktop, isolating switch, oven and double general power outlet must—</p> <p>(a) not be in the corner of the bench or the corner of the room, and</p>	<b>Capable of compliance</b>

(b) face where the user of the fixture is likely to be.	
(9) Cabinetry below a work surface must be able to be easily removed to allow wheelchair access to the work surface.	<b>Capable of compliance</b>
<b>Section 19 - Laundry</b>	
(1) A laundry in an independent living unit must be located on: (a) the same floor as the entry to the dwelling, or (b) a floor serviced by a private passenger lift accessible only from inside the dwelling.	<b>Complies</b>
(2) The laundry must have the following: (a) a circulation space that complies with AS 1428.1 at the approach to any external doors, (b) an appropriate space for an automatic washing machine and a clothes dryer, (c) a clear space in front of each appliance of at least 1,550mm, (d) a slip resistant floor surface that achieves a minimum rating of P3 in accordance with AS 4586—2013, (e) a continuous accessible path of travel to the main area of private open space or any clothes line provided for the dwelling.	<b>Capable of compliance</b>
(4) For laundry facilities in a cupboard, the cupboard must be capable of being fitted with “D” pull cupboard handles in the following locations: (a) for below-bench cupboards—towards the top, (b) for overhead cupboards—towards the bottom, (c) for floor-to-ceiling doors—between 900mm and 1,100mm above the finished floor level.	<b>Capable of compliance</b>
<b>Section 20 - Linen storage</b>	
An independent living unit must have a floor-to-ceiling linen storage cupboard that— (a) is at least 600mm wide, and (b) has adjustable shelving.	<b>Complies</b>
<b>Section 21 - Lift access in multi-storey buildings</b>	
An independent living unit on a storey above the ground storey must be accessible by a lift that complies with the Building Code of Australia, Volume 1, Part E3.	<b>Complies</b>
<b>Section 22 - Garbage and recycling</b>	
A garbage storage area and a recycling storage area provided for an independent living unit must be accessible by a continuous accessible path of travel from the dwelling entrance.	<b>Complies</b>

<b>Clause 88 – Restrictions on Occupation of Seniors Housing</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
(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,	<b>Capable of compliance via condition</b>
(b) people who live in the same household with seniors or people who have a disability,	<b>Capable of compliance via condition</b>
(c) staff employed to assist in the administration and provision of services to housing provided under this Part.	<b>Capable of compliance via condition</b>
(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.	<b>Capable of compliance via condition</b>

<b>Clause 90 – Subdivision</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
(1) Development consent may be granted for the subdivision of land on which development has been carried out under this Part.	N/A
(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 E2 Commercial Centre or Zone B3 Commercial Core.	N/A

<b>Clause 91 – Fire sprinkler systems in residential care facilities</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
(1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system.	N/A

#### **Division 4 – Site-related requirements**

<b>Clause 93 – Location and access to facilities and services (independent living units)</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
(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	<b>Part complies</b>

	The transport service proposed (being public bus) fulfils the requirements of sub-section (2). However, residents will not have adequate access to this service (see comments under sub-section 3).
(b) on-site.	N/A
<b>Note:</b> Facilities and services means:	
<ul style="list-style-type: none"> <li>(a) shops and other retail and commercial services that residents may reasonably require, and</li> <li>(b) community services and recreation facilities, and</li> <li>(c) the practice of a general medical practitioner.</li> </ul>	
(2) The transport service must:	
(a) take the residents to a place that has adequate access to facilities and services, and	<b>Complies</b>
(b) for development on land in the Eastern Harbour City: <ul style="list-style-type: none"> <li>(i) not be an on-demand booking service</li> <li>(ii) for the transport of passengers for a fare, and 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>	<b>Complies</b>
(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 (b) the distance is accessible by means of a suitable access pathway, and (c) the gradient along the pathway complies with sub-section (4)(c).	<p><b>Does not comply</b></p> <p>The proposed distance is in excess of the 400m requirement for access to a transport service (441m to northbound and 415m to southbound). A written request to vary this development standard under Clause 4.6 has not been provided. This is included as a reason for refusal.</p> <p>The application has not demonstrated that a suitable access pathway can be provided in accordance with subsection 3(a). Council's Traffic Officer has assessed that the pathway is not suitable for the following reasons:</p> <ul style="list-style-type: none"> <li>-the crossing of Kevin Avenue is in an unsafe location where sight lines are obscured by the crest,</li> <li>-the pathway involves encroachment onto private property,</li> <li>-there is a requirement for relocation of signs and a Telstra service pit, and modification to a stormwater inlet; and insufficient detail and investigation has been undertaken by the applicant, which means it is not possible for Council to properly consider the suitability of the proposed pathway</li> </ul>

	<p>Council's Landscape Officer also requires further information with regard to the impact of the pathway on street trees.</p> <p>Therefore, the application has not demonstrated that the proposed pathway is suitable.</p>
4) In sub-section (3):	
<p>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</p> <p>b) the distance is to be measured by reference to the length of the pathway, and</p> <p>c) the overall average gradient must be no more than 1:14 and the gradients along the pathway must be no more than:</p> <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>	<p><b>Does not Comply (Insufficient information)</b></p> <p>It appears the pathway does not comply with the gradient requirements under sub-section 4. However, insufficient survey information has been provided to determine this.</p>

<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	<b>Capable of compliance</b> The subject site is serviced by existing water and sewerage infrastructure.
(b) have adequate facilities for the removal or disposal of sewage.	<b>Complies</b>
(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	N/A
(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.	N/A

## Division 5 – Design requirements

### Clause 97 – Design of in-fill self-care housing



Standard	Compliance/Comment
<p>(1) In determining a development application for development for the purposes of seniors housing, a consent authority must consider the Seniors Housing Design Guide, published by the Department in December 2023.</p>	<p><b>Complies</b></p> <p>The proposal provides for seniors housing that is generally two storeys, well modulated and articulated, and has generous landscaping. As such, the proposed built form is responsive to the established character of detached dwellings in the area.</p> <p>As stated under the Guide, low density seniors housing has an FSR that is typically 0:5:1 or less. The proposal has an FSR of 0.47:1.</p> <p>Through the provision of amended plans, a significant indentation was designed into the rear module to reduce the bulk and scale of the building, provide further landscaping and integrate well with the Environmental Living zone to the rear of the site.</p> <p>Overall, the built form responds well to the characteristics of the area and is consistent with the desired future character envisaged under the Pittwater DCP.</p>
<p>(2) Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.</p>	<p><b>Complies</b> (as below)</p>

An assessment against Schedule 8 has been completed in the following tables:

### Schedule 8 - Design principles for seniors housing

1 – Neighbourhood amenity and streetscape	
Standard	Compliance/Comment
Seniors housing should be designed as follows:	
<p>(a) recognise that the operational, functional and economic requirements of residential care facilities typically require a different building shape from other residential accommodation,</p>	<p><b>Complies</b></p> <p>The building shape and design is appropriate for seniors living for the reasons outlined in this report (including compliance with relevant provisions for seniors housing under the SEPP).</p>
<p>(b) recognise the desirable elements of:</p> <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</li> </ul>	<p><b>Complies</b></p>

new buildings contribute to the quality and identity of the area,	
(c) complement heritage conservation areas and heritage items in the area,	N/A
(d) maintain reasonable neighbourhood amenity and appropriate residential character by: <ul style="list-style-type: none"> <li>i) providing building setbacks to reduce</li> <li>ii) bulk and overshadowing, and</li> <li>iii) using building form and siting that relates to the site's land form, and</li> <li>iv) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</li> </ul>	<p><b>Complies</b></p> <ul style="list-style-type: none"> <li>i) The proposal provides sufficient setbacks to ensure compliance with the requirements for Solar Access under the Pittwater DCP.</li> <li>ii) The proposal steps well with the topography of the land and involves a basement that is generally one storey in depth. This is an appropriate response to the landform.</li> <li>iii) The proposal complies with the building height requirements under this policy.</li> <li>iv) The proposal is well setback from neighbouring boundaries, with generous landscaped side setbacks.</li> </ul>
(e) to set back the front building on the site generally in line with the existing building line,	<b>Complies</b>
(f) to include plants reasonably similar to other plants in the street,	<b>Complies</b>
(g) to retain, wherever reasonable, significant trees,	<p><b>Complies</b></p> <p>The proposal has been submitted with an Arborist Report that has assessed the condition of 63 trees and recommended the removal of 11 (9, 12, 51-59) trees which are all prescribed. Council's Landscape Officer has stated that the design has retained trees where reasonably expected they would, particularly by providing an appropriately sited basement. Council's Landscape Officer has stated that conditions could be imposed for protection of trees if the application were to be approved.</p>
(h) be designed so no building is constructed in a riparian zone.	<p><b>Complies</b></p> <p>No building is proposed in a riparian zone.</p>

## 2 – Visual and acoustic privacy

Standard	Compliance/Comment
Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and all residents of the seniors housing by:	

(a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping,	<b>Capable of compliance via conditions</b>  The proposal has generous landscaped setbacks to the sides and rear of the site, and provides for windows, balconies and terraces that are well separated, and orientated away from neighbouring living spaces. Further screening could be required as a part of the conditions, if the application were to be approved.
(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	<b>Complies</b>  All proposed new bedrooms are well separated from driveways, parking areas and paths.

<b>3 – Solar access and design for climate</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
The design 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	<b>Complies</b>
(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.	<b>Complies</b>

<b>4– Stormwater</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
The design 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	<b>Capable of compliance via condition</b>
(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	<b>Capable of compliance via condition</b>

<b>5 – Crime prevention</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
Seniors housing should:	
(a) be designed in accordance with environmental design principles relating to crime prevention, and	<b>Complies</b>
(b) provide personal property security for residents and visitors, and	<b>Complies</b>

<p>(c) encourage crime prevention by:</p> <p>(i) 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</p> <p>(ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and</p> <p>(iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p><b>Complies</b></p> <p>The proposed development is designed in such a way that occupants of the dwellings are able to observe approaching visitors from inside the dwellings.</p>
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<b>6 – Accessibility</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
Seniors housing should:	
<p>(a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and</p>	<p><b>Does not comply</b></p> <p>A suitable, safe and obvious pedestrian link has not been demonstrated (see further comments under Clause 93 above).</p>
<p>(b) provide safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p><b>Does not comply</b></p> <p>Council's Traffic Officer has stated that visitor parking is required (see comments under parking under Pittwater DCP section of this report).</p>

<b>7 – Waste management</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	<b>Complies</b>

## Division 7 – Non-Discretionary Development Standards

<b>Clause 108 – Non-discretionary development standards for independent living units</b>	
<b>Standard</b>	<b>Compliance/Comment</b>
<p>(2) The following are non-discretionary development standards in relation to development for the purposes of an independent living unit:</p>	
<b>Height</b>	
<p>a) no building exceeds a height of 9.5m, excluding servicing equipment on the roof of a building,</p>	<b>Complies (8.8m)</b>
<p>b) servicing equipment on the roof of a building, which results in the building exceeding a height of 9.5m:</p> <p>i) is fully integrated into the design of the roof or contained and suitably screened</p>	<b>Complies</b>

<p>ii) from view from public places, and is limited to an area of no more than 20% of the surface area of the roof, and does not result in the building exceeding a height of 11.5m.</p>	
<p><b>Density and Scale (FSR)</b></p>	
<p>c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less. (1394.5sqm)</p>	<p><b>Complies</b> 1311sqm or 0.47:1</p>
<p><b>Landscaped Area</b></p>	
<p>(d) a minimum landscaped area that is the lesser of: (i) 35m<sup>2</sup> per dwelling, or (ii) 30% of the site area, - 30% = 836.7sqm</p> <p><i>*landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.</i></p>	<p><b>Complies</b></p>
<p>(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, (418.35sqm)</p> <p><i>*Deep soil zone means a landscaped area with no buildings or structures above or below the ground.</i></p>	<p><b>Complies</b> 35.5% (991.5sqm)</p> <p>The proposal only provides 27% of deep soil zone to the rear of the site. However, it is not deemed practicable to provide 65% of the deep soil zone to the rear of the site due to the predominant character of the immediate area involving large front setbacks.</p>
<p><b>Solar Access</b></p>	
<p>(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.</p>	<p><b>Complies</b></p>
<p><b>Private Open Space</b></p>	
<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: (i) at least 15m<sup>2</sup> of private open space per dwelling, and (ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor.</p> <p><b>Note:</b> 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</p>	<p><b>Complies</b></p>

itself is an accessible one (see Schedule 4, section 2).	
(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: (i) an area of at least 10m <sup>2</sup> , or (ii) for a 1 bedroom dwelling - an area of at least 6m <sup>2</sup> .	<b>Complies</b>
<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, k) if (j) does not apply - at least 0.5 parking space for each bedroom. = <b>14 parking spaces (28 bedroom total)</b>	<b>N/A</b> <b>Complies (with SEPP requirements)</b>  14 spaces provided which complies with (k)  However, Council's Traffic Officer has stated that visitor car parking is required in accordance with the requirements of the Pittwater DCP. See comments under Pittwater DCP.

## 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 raised no objections.

## 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.

#### Pittwater Local Environmental Plan 2014

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

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	9.5m*	8.8m	N/A	Yes (under SEPP Housing 2021)

\*Note: The WLEP 2011 Height of buildings map indicates that the maximum height of building on this site is 8.5m, however clause 84(2)(c) of the SEPP (Housing) 2021 prevails. This permits a maximum height of 9.5m (excluding servicing equipment on the roof of the building).

#### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	No
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

#### Detailed Assessment

##### 7.2 Earthworks

The objectives 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 could be processed according to the Waste Management Plan for the development. A condition could be included for this.

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

Comment: The proposed earthworks would not result in unreasonable amenity impacts on adjoining properties. A condition could be included for this.

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

Comment: The excavated material could be processed according to the Waste Management Plan for the development. A condition could be included for this.

*(f) the likelihood of disturbing relics*

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

*(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 could be included that would minimise the impacts of the development.

*(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.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is **supported**, in this particular circumstance.

## **Pittwater 21 Development Control Plan**

### Built Form Controls



Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m or established building line, whichever is the greater  (The established building line is varied, being approximately 27m)	1.2m (Entry)  24 m – 26m (Building façade)	N/A	<b>No (see comments)</b>
Rear building line	6.5m	6.5m (Terrace)  9m (Building Façade)  10.4m (Basement)	N/A	Yes
Side building line (multi-dwelling housing)	<u>Front Building (North-West):</u> Ground: 3m Upper floor: 3.7m - 4.1m	Ground: 3m – 3.7m  Upper floor: 3m- 3.7m	N/A up to 23%	Yes <b>No (see comments)</b>
	<u>Rear Building (North-West):</u> Ground: 3m  Upper floor: 3.9m - 4.18m (Based on wall height)	Ground: 3m – 6m  Upper floor: 3m- 6m	N/A up to 30%	Yes <b>No (see comments)</b>
	<u>Front Building (South-East):</u> Ground: 3m  Upper floor: 3.9m - 4m	Ground: 3m - 3.7m  Upper floor: 3m - 3.7m	N/A Up to 30%	Yes <b>No (see comments)</b>
	<u>Rear Building (South-East):</u> Ground: 3m  Upper floor: 3.9m - 4.2m	Ground: 3m – 6m  Upper floor: 3m- 6m	N/A up to 30%	Yes <b>No (see comments)</b>
Building envelope (multi-dwelling housing)	4.2m (SE)	Within envelope	N/A	Yes
	4.2m (NW)	Within envelope	N/A	Yes
Landscaped area	50%	SEPP (Housing) 2021 controls prevails*	N/A	N/A

**\*Note: SEPP (Housing) 2021 requires 30% Landscaped Area and 15% Deep Soil Zone (inclusive)**

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	No
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	No	No
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	No	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	Yes	Yes
D1.15 Fences - General	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

#### Detailed Assessment

#### **B6.3 Off-Street Vehicle Parking Requirements**

The proposal provides 14 car parking spaces in accordance with *SEPP Housing 2021*.

Council's Traffic Officer has stated that visitor car parking is also required in accordance with the requirements of the Pittwater DCP (4 spaces). It is proffered by Council's Traffic Officer that a numerical standard for visitor parking is not specifically referenced in *SEPP Housing 2021*.

Therefore, it is stated that there is no visitor parking section under the SEPP that prevails over the requirement under the Pittwater DCP.

No visitor parking spaces are provided in the proposal, and the Pittwater DCP requires four (4) spaces.

As such, this is included as a reason for refusal.

#### **B6.7 Transport and Traffic Management**

In the event of an approval, a condition could be imposed to require a Construction and Traffic Management Plan.

#### **D1.8 Front building line**

##### **Description of Front Setback**

The Pittwater 21 DCP has a numerical control which requires buildings to comply with a 6.5m or established building line, whichever is the greater.

The established building line is varied, being approximately 27m. The proposed front module generally meets this requirement.

However, an entry structure is proposed within the front setback, being 1.2m from the front boundary.

### **Merit Consideration**

With regard to the consideration for the variation, the development is considered under the outcomes of the control below:

*To achieve the desired future character of the Locality.*

Comment:

The proposal involves new buildings at the front and rear of the consolidated site. These buildings are well articulated at all elevations and are no more than two storeys at any one point. The proposal also has generous landscaped setbacks at the front, side and rear boundaries. The front section of the site is modulated to allow for a 'breezeway' through the central corridor, and there is a large area for landscaping and open space between the front and rear buildings. There is also a large indentation at the rear elevation of the rear module to provide an opportunity for landscaping and a break of the built form that transitions well with the C4 Environmental Living zone at the rear of the site. This provides a situation in which the proposal is consistent with the desired future character.

*The amenity of residential development adjoining a main road is maintained.*

Comment:

The building is sufficiently separated from the road and buffered by landscaping to ensure amenity is appropriately maintained.

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

Comment:

The proposal minimises the removal of significant vegetation with suitable design of the basement, and involves a deep soil that complies with the control under *SEPP Housing 2021*. Further, Council's Landscape Officer has stated that the tree retention on the site is acceptable, and conditions could be imposed to protect remaining trees if the application were to be approved.

*Vehicle maneuvering in a forward direction is facilitated.*

Comment:

The car parking situation provides appropriate opportunities for vehicle maneuvering, given the topographical context of the site.

*To encourage attractive street frontages and improve pedestrian amenity.*

Comment:

The proposal will provide an attractive street frontage by integrating natural features with a well stepped built form to provide an appropriate bulk and style for the streetscape.

*To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

Comment:

The proposed front setbacks and building design appropriately respond to the spatial characteristics of the existing urban environment, by providing sufficient integration of landscaping and sufficient distribution of built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21DCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is **supported**, in this particular circumstance.

### **D1.9 Side and rear building line**

#### **Description of Side Setbacks**

The proposal complies with the side setback control (3m) at the ground floor for all modules, with setbacks varying from 3m to 6m.

Along some sections of the site, the proposal does not comply with the control for side setbacks at the upper level. The control for side setbacks varies from 3.7m to 4.2m, with proposed setbacks varying from 3m to 6m.

#### **Merit Consideration**

*To achieve the desired future character of the Locality.*

Comment:

The proposal involves new buildings at the front and rear of the site. These buildings are well articulated at all elevations and are no more than two storeys at any one point. The proposal also has generous landscaped setbacks at the front, side and rear boundaries. The front section of buildings are well modulated to allow for a 'breezeway' through the central corridor, and there is a large area for landscaping and open space between the front and rear buildings. There is also a large indentation in the rear module to provide an opportunity for landscaping and a break in the built form that transitions well with the C4 Environmental Living zone at the rear of the site. This provides a situation in which the proposal is consistent with the desired future character.

*The bulk and scale of the built form is minimised.*

Comment:

The proposed development is of a bulk and scale that is sympathetic to the established character of detached dwellings in the area. The proposed buildings step with the topography of the site, and the building bulk is sufficiently distributed across the site. The articulation, modulation and stepping in conjunction with generous landscaped setbacks, provides an appropriate minimisation of building bulk.

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

Comment:

The proposed development is adequately articulated and sited so as to preserve views and vistas to

and from the subject site and the surrounding area.

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

Comment:

The proposed development involves adequate spacing and stepping to allow for view corridors to encourage view sharing.

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

Comment:

The proposal is sufficiently screened and separated from neighbouring living spaces and private open space. Generous landscaped buffers are also provided with living spaces generally orienting toward these landscaped areas rather than to neighbouring living spaces. Further, the proposal complies with the requirements for solar access under the Pittwater 21 DCP. If the application, were to be approved, conditions could be imposed to provide further landscape screening.

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

Comment:

The proposed development retains substantial vegetation to surround the site and allow for an attractive streetscape. Suitable planting is also included in the landscape plan, which is to the satisfaction of Councils Landscape Officer. If the application, were to be approved, conditions could be imposed to ensure an appropriate landscape outcome.

*Flexibility in the siting of buildings and access.*

Comment:

Flexibility is warranted in allowing the proposed setbacks to be non-compliant with the numerical controls due to the lack of unreasonable visual impact and lack of amenity impact. The spatial separation of the works from the street and separation from the neighbouring living spaces further warrants this flexibility.

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

Comment:

The proposal maintains landscaping and vegetation to the front and rear of the site. As such, there is sufficient landscaping and vegetation on the site to enhance the site and visually reduce the presentation of building bulk.

*A landscaped buffer between commercial and residential zones is achieved.*

Comment:

Not applicable. The subject site does not adjoin commercial land.

The proposal is consistent with the outcomes of this clause.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2024**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$85,905 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$8,590,453.

## **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;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

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

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

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

## **PLANNING CONCLUSION**

The proposal seeks consent for demolition of existing dwellings and construction of a seniors housing development with ten (10) in fill self-care housing units with 16 basement car parking spaces, which is lodged pursuant to the provisions of *SEPP Housing 2021*.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) as 98 submissions were received in response to the public exhibition of the application. In this regard, the application is triggered to go to the Panel based on it being a "*contentious development*", that is an application that has "10 or more unique submissions by way of objection".

The proposal also contravenes a numerical development standard by more than 10% (exceeds the 400m distance to the outbound and inbound bus stops in Barrenjoey Road) under Clause 93 of SEPP Housing 2021, which is another trigger for the application to be referred to the NBLPP. It is noted that no Clause 4.6 variation was lodged in relation to these departures from the development standard.

The concerns raised in the resident objections have been addressed in this report, with the objections relating to traffic and lack of a suitable pathway for the development being concurred with.

The critical assessment issue in this application relates to the suitability of the proposed access pathway to a transport service (bus stops) under Clause 93 of SEPP Housing 2021. Council's Traffic Officer and Landscape Officer have carried out a detailed review of the proposed pathway and advise that it is unsuitable and will have adverse impacts on the road reserve of Kevin Avenue.

As the application has failed to demonstrate a 'suitable access pathway', the application does not satisfy the key pre-requisite for a Seniors Housing development site under SEPP Housing 2021. This forms the main reason of refusal of the application.

Overall, the proposed built form has been amended to perform well against the relevant controls and will not result in unreasonable impacts on adjoining and nearby properties or the natural environment.

The application was considered by the DSAP and was generally supported from an urban design and sustainability perspective.

Therefore, the reasons for refusal relate to the unsuitability of the proposed pathway to the bus stops in Barrenjoey Road, the lack of detailed information on the impacts of the pathway, and the lack of visitor parking.

Accordingly, the application is recommended for refusal.

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 DA2024/0044 for the Demolition works and construction of Seniors Housing with basement parking on land at Lot 11 DP 12435,27 Kevin Avenue, AVALON BEACH, Lot 10 DP 12435,25 Kevin Avenue, AVALON BEACH, 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 93 of SEPP Housing 2021.

### Particulars:

- (a) Specifically, the application is inconsistent with the provisions of Clause 93 for the



following reasons:

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

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

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

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

Particulars:

(a) The application involves excessive distances to a transport service, seeking a 441m distance to the south-bound bus stop and 415m to the north-bound bus stop, which are in excess of the 400m requirement under clause 93 of the SEPP.

(b) A Clause 4.6 written request has not been submitted with the application to address the variation. Therefore, the departure from the development standard cannot be supported, as it is a jurisdictional requirement.

3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause B6.3 Off-Street Vehicle Parking Requirements of the Pittwater 21 Development Control Plan.

Particulars:

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

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause 85 (Car Parking) of State Environmental Planning Policy (Housing) 2021.

Particulars:

(a) The shared zones of the accessible spaces are obstructed by garage doors that restrict access.

(b) There is insufficient information submitted with the application in relation to swept paths to

demonstrate access to parking is adequate.

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

Particulars:

- (a) The proposed pathway to a transport service involve excessive distances to bus stops.
- (b) The impacts of the construction of the pathway in Kevin Avenue and its suitability cannot be fully determined.

Therefore, the application is contrary to maintaining and protecting the public interest.