

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1162
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Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 33 DP 11462, 27 Bellevue Avenue AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of three senior's living apartments with parking
Zoning:	R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Stephen Craig Thompson Julia Anne Thompson
Applicant:	Shed Architects Pty Ltd

Application Lodged:	22/09/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	02/10/2020 to 23/10/2020
Advertised:	02/10/2020
Submissions Received:	26
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 4,998,272.00
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EXECUTIVE SUMMARY

Development Application (DA2020/1162) has been made for demolition works and construction of a two storey development containing 2 buildings, with a total of 3 self-contained dwellings pursuant to State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004. The development includes basement car parking for 6 vehicles. The works also include removal of 8 native trees and construction of new vehicular accesses.

Public exhibition of the development resulted in 24 submissions objecting to the proposal and raising concerns relating to impact on trees, traffic, safety, impact on character, non-compliance with planning controls and non-compliance with SEPP HSPD.

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

Despite amendments made to the application, Council's Landscape officer and Waste officer are not satisfied that the information addresses issues (particularly in regard to tree retention and location of waste storage). Further to this, Council's Development Engineer has provided that further information is required to complete a full assessment. This includes information to show the amendments made by Council's Traffic engineer (through recommended conditions).

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

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

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves demolition of the existing dwelling and structures, excavation, removal of trees, and construction of three self contained seniors housing units with 6 car parking spaces. In further detail, the proposal involves:

- Removal of 17 trees
- Two buildings which are both two storeys in height
- The western building contains two car parking stackers (4 spaces) in western building
- The eastern building contains two standard parking spaces along with waste storage
- A swimming pool is located on the eastern side of the dwelling

Amended Plans - 1/03/2021

Amended plans were provided on 1/03/2021 which provided the following changes:

- Proposal to retain Trees 25, 30 and 39
- Addition of Pavements to Bellevue Avenue and Wickham Lane
- Relocation of Garbage room
- Relocation of stairs (to reduce impact on Tree 30)
- Reconfiguration of bedroom windows
- Amendment to car stacker type (where upper car must be removed prior to lower car entering/exiting)

The assessment in this report is based on these amended plans and other additional information submitted on 1 March 2021.

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 - 4.6 Exceptions to development standards

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

Pittwater 21 Development Control Plan - B6.2 Internal Driveways

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities

Pittwater 21 Development Control Plan - C1.21 Seniors Housing

Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure

Pittwater 21 Development Control Plan - D1.8 Front building line

Pittwater 21 Development Control Plan - D1.13 Landscaped Area - General

SITE DESCRIPTION

Property Description:	Lot 33 DP 11462 , 27 Bellevue Avenue AVALON BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of an allotment located on the eastern side of Bellevue Road, western side of Wickham Lane, and northern side of Sanders Lane.</p> <p>The site is regular in shape with a frontage of 20.1m along Wickham Lane (and Bellevue Avenue) and a depth of 60.365m. The site has a surveyed area of 1214m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a dwelling house on site.</p> <p>The site has a slope with a crossfall of approximately 8m from Bellevue Avenue to Wickham Lane. The site has vegetation which covers the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by</p>

a mix of development which includes residences and a school to the west, and businesses to the west.

Map:



SITE HISTORY

PLM2019/0191 - Construction of Seniors Housing Development

This PLM involved four seniors housing units with a 0m setback to Bellevue Avenue, and a setback of 2.3m to Wickham Lane. Advice was provided in this PLM that greater setbacks should be provided and a reduction should be made to the overall bulk of the building so that the presentation of the development was not akin to a residential flat building. Various advice was also provided by referral bodies in Council.

The development application is an amended design to that proposed in the prelodgement discussions, with the removal of 1 unit, provision of has provided a reduction to the design which has involved a reduction form four units down to three units, greater setbacks, and a response to comments provided by referral bodies.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on

Section 4.15 Matters for Consideration'	Comments
	13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The suitability of the site in terms of likely impacts on the environment and character has been discussed in detail in the various section of this report. In summary, the suitability of the site for the development as proposed in its current form remains uncertain, due to fact that the proposal has not fully addressed the environmental impacts of the proposed development.</p> <p>In this regard, under the circumstances, the site is not considered to be suitable for this particular form and scale of development, given that Council's Landscape Team do not support the proposal due to the environmental impacts caused on high retention value trees.</p> <p>Therefore, a conclusive determination that the site is suitable</p>

Section 4.15 Matters for Consideration'	Comments
	cannot be made at this stage.
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	No matters have arisen in this assessment that would justify the refusal of the application on the grounds of public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 02/10/2020 to 23/10/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 26 submission/s from:

Name:	Address:
Avalon Public School	11 Old Barrenjoey Road AVALON BEACH NSW 2107
Aida Blanche Wise	11 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr John Yates Williams Mrs Carol Ann Williams	12 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Bill Tulloch	9 Barrabooka Street CLONTARF NSW 2093
Mr John Roderick Honner	9 / 17 - 19 Old Barrenjoey Road AVALON BEACH NSW 2107
Mrs Janine Yvonne Davis	8 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
Peter Pane	31 Bellevue Avenue AVALON BEACH NSW 2107
Mr Simon Lansdell Paine	3 Wickham Lane AVALON BEACH NSW 2107
Mrs Carol Maragret Altman	19 / 21 - 23 Old Barrenjoey Road AVALON BEACH NSW 2107
Mrs Christine Thelma Haughton	6 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Peter Gemell	23 Marine Parade AVALON BEACH NSW 2107
Mr Kenneth Eric Iverson	9 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
Mrs Maricela Barclay	7 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
Ms Louise Ellen Brennan	24 Bellevue Avenue AVALON BEACH NSW 2107
Mrs Jessica Clare Gouldthorpe	24 Bellevue Avenue AVALON BEACH NSW 2107
Mr Timothy William Cooper	70 Binburra Avenue AVALON BEACH NSW 2107
Hamish Green	11 Wallaby Circuit MONA VALE NSW 2103
Richard Fitzgerald	44 Marinna Road ELANORA HEIGHTS NSW 2101

Name:	Address:
Charlotte Mcewen	93 Spencer Road MOSMAN NSW 2088
Nathaniel Hammill	2 / 16 Clarke Street NARRABEEN NSW 2101
Holly Duggan	9 Mahogany Boulevard WARRIEWOOD NSW 2102
Aric Debelle-Cooper	70 Binburra Avenue AVALON BEACH NSW 2107
William Francisco	15 / 61 Avalon Parade AVALON BEACH NSW 2107
Mr Jason Paul Marty	PO Box 385 AVALON BEACH NSW 2107
Mr Stuart Philip Thomas	150 Beecroft Road CHELTENHAM NSW 2119
Victor Frederick Charles Wise	11 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107

The matters raised within the submissions are addressed as follows:

- **Impact of trees and lack of appropriate landscaping**

Comment:

Council's Landscape officer has provided that the footprint of the building and design of the development does not provide for appropriate protection of existing trees. As such, this is a reason for refusal.

- **Impact on privacy including visual and acoustic. In particular, submissions raise concern with overlooking across Wickham Lane (a request is made for screening of the proposed windows at Wickham Lane).**

Comment:

The proposal complies with the exception for setbacks to Secondary Street frontages (3.5m), and provides reasonable separation between the subject property and neighbouring living areas. Along with conditions which could be provided for further screening and acoustic control, the proposal would not have any unreasonable privacy impact.

- **Traffic**

Comment:

Council's Traffic officer has provided support for the development but has recommended a series of conditions that require design changes to ensure an appropriate outcome. As a result of these design changes it is recommended that further information is provided prior to the issue of any consent. This is to give an ability to the Development Engineer and Waste Officer to provide a complete review of what is proposed in the application.

- **Safety including impact on nearby school children**

Comment:

It is recommended that further information be provided in accordance with comments provided by Council's Traffic officer. From this information, a full assessment could be made in regard to the safety of the application including impact on school children.

- **Inappropriate character, lack of scenic protection, overbearing bulk and scale, and overdevelopment; Inappropriate building configuration and excessive extent of building footprint**

Comment:

The proposal provides a reasonable outcome for the built form on site due to sufficient articulation, stepping with the slope, and appropriate physical separation (from the street and

neighbours). However, the proposal does not provide an appropriate integration of natural features with the built form due to the concern raised by Council's Landscape officer in regard to long term retention of the trees.

- **Non-compliance with planning controls**

Comment:

An assessment in this report is made against non-compliance to relevant planning controls. The proposed built form is generally acceptable in terms of visual presentation and amenity impact. However, variation to some controls such as landscaping and character, is not acceptable for reasons outlined in this report.

- **Concern with representation of *ground level (existing)*. "The survey spot levels of 13.91 over the sewer line, 13.20 [near the word 'undergrowth', 13.03, and 11.74 on Wickham Lane must be show accurately on this drawing."**

Comment:

A review of the survey and architectural plans has found that sufficient detail and accuracy has been provided to make an assessment of the application.

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

Comment:

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

- **Inappropriate siting of site features such as parking and swimming pool**

Comment:

Council's Traffic officer has provided that the number of parking spaces and access to parking is suitable, subject to conditions. The proposed swimming pool is also in a suitable location, and would not cause any unreasonable amenity impact due to reasonable separation from neighbours.

- **Precedent**

Comment:

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

- **Money could be invested elsewhere (such as in to families)**

Comment:

The proposed use for seniors housing is permitted in the zone, and under the SEPP HSPD. In this regard, the matter of how money is invested is either a private matter and not a matter for or a matter for other public policy or a matter for consideration under the EP&A Act.

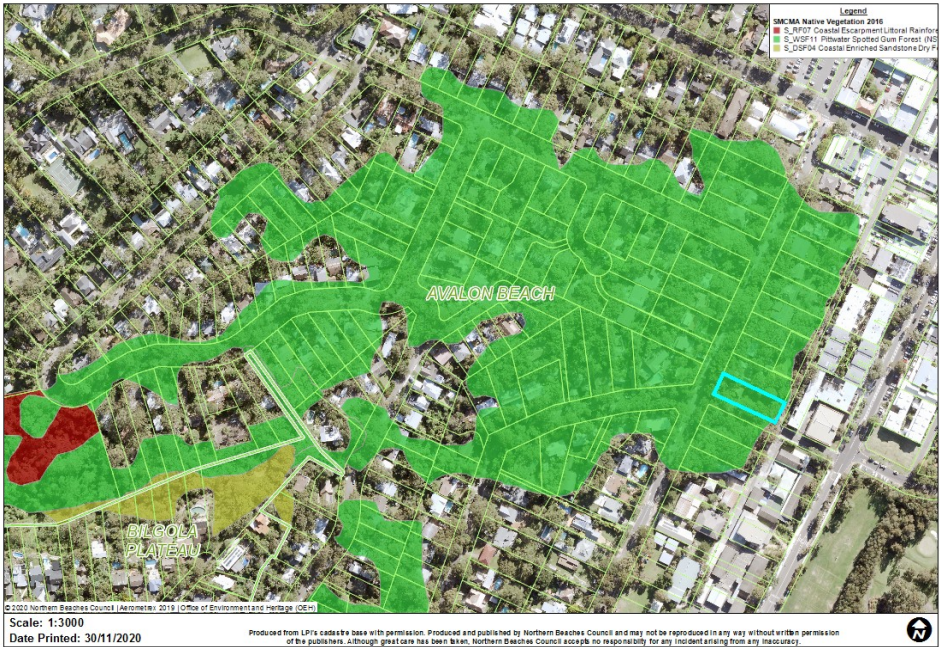
REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>REFUSAL</p> <p>Demolition of an existing dwelling house and ancillary structures, removal of trees, excavation and construction of a Seniors Housing development incorporating 3 x self-contained units, 6 car parking space and associated landscaping, site works and new tree planting.</p> <p>In the initial landscape assessment of this application, consideration of the submitted Landscape Documents prepared by Botanica, and the Arboricultural Impact Assessment prepared by Construct By Design is assessed for compliance with the following relevant controls and policies:</p> <ul style="list-style-type: none"> • Housing for Seniors or People with a Disability: clause 33 Neighbourhood amenity and streetscape. • Seniors Living Policy: clause 2. Site Planning and Design - deep soil zone of 15% with minimum dimension of 3 metres; and clause 3. Impacts on Streetscape - retain trees on the street and in front and rear setbacks to minimise impact on the streetscape and neighbours. • Pittwater 21 DCP Controls: B4.22 Preservation of Existing Trees and Bushland Vegetation; C1.1 Landscaping; C1.21 Seniors Housing; and C1.24 Public Road Reserve - Landscaping and infrastructure. <p>Following issues raised regarding development impact to existing trees identified as trees 21, 23, 24, 26, 29 and 33 (Sydney Red Gum) and tree 27 (Stringy Bark), amended architectural plans and a updated arboricultural impact assessment have been issued to Council for assessment. The development works, based on amended plans and reports proposes the retention or removal of trees as follows:</p> <ul style="list-style-type: none"> • Retention within the development site: five native trees are proposed for retention (T25, T26, T30, T33, T39), with four (T26, T30, T33, T39) requiring arboricultural attendance by a Project Arborist, • Removal within the development site: two native trees (T34, T35) are proposed for removal due to development impact, and six native trees (T16, T22, T31, T32, T36 and T38) are proposed for removal due to health conditions that require removal regardless of development, with a further four exempt species (T17, T20, T40 and T41) to be removed, pruned or relocated and not requiring Council consent, • Relocation within the development site: two palms (T18 and T19) are proposed for relocation, • within Council's road verge: all twenty-one street trees (T1, T2, T4, T5, T6, T9, T12, T14, T15, T21, T23, T24, T27, T28, and T29) are proposed for retention, with four (T21, T23, T24 and T29) requiring arboricultural attendance by a Project Arborist, and six are dead/dying (T3, T7, T8, T10, T11, T13) and should be removed, • within adjoining property: all three trees within 5 metres of development are proposed for retention, with one (T37) requiring arboricultural attendance by a Project Arborist <p>Tree root investigations have been carried to locate roots of significance and the updated arboricultural impact assessment provide recommendations for tree protection measures. Concerns remain that excavation works and the proximity of existing trees to proposed building and structures will place</p>

Internal Referral Body	Comments
	<p>ongoing issues with the arboricultural preservation of existing trees in the long term, as opposed to arboricultural construction methods near the existing trees, as follows:</p> <ul style="list-style-type: none"> • T21 (Sydney Red Gum): the updated arboricultural impact assessment provides construction recommendations including the use of permeable pavers for the proposed new driveway which is contrary to Council's engineering standards requiring concrete driveways, and hence the advantages of permeable paving to providing moisture and aeration to the existing root system is not available, thus restricting the available area for future root growth deemed necessary where the area lost to an encroachment should be compensated elsewhere and contiguous with the tree protection zone. The amount of built elements around T21 including driveway and pavement, and building reduces the natural ground area available for future growth, • T23 (Sydney Red Gum), T25 (Cheese Tree), and T26 (Sydney Red Gum): the existing tree trunks are suitably located approximately 3 metres and more away from buildings to be able to construct the development works, but are located against the proposed walkway, and in close proximity to the lift and pool, such that the long term preservation of these trees is at risk from resident safety concerns and requests for removal based on proximity to building, structures and the loss of solar access to the building internal areas and the pool. Council would be required to assess any such tree applications for removal on merit, and it is considered that such possible removal then does not present any opportunity for replacement trees of a similar size due to the reduced natural ground areas, • T33 (Sydney Red Gum): the existing tree trunk is located approximately 1 metre from the lower parking level and the building line / terrace/ lounge of Apartment 3 at the lower ground level, and whilst the updated arboricultural impact assessment determines construction in close proximity is feasible, the long term preservation of this tree is at risk from resident safety concerns and requests for removal based on proximity to building and the loss of solar access to the building internal areas. Council would be required to assess any such tree application for removal on merit, and it is considered that such possible removal then does not present any opportunity for a replacement tree of a similar size as the rear setback is insufficient in area to support a equal sized canopy tree. <p>Landscape Referral are of the opinion that a reduction of the footprint away from these existing trees is required to achieve retention of the trees in the long term, and provide an acceptable landscape outcome, where development is incorporated into a landscape setting typical of the locality.</p>
NECC (Bushland and Biodiversity)	<p>Approval - Subject to Conditions</p> <p>Updated Biodiversity Referral (4 March 2021)</p> <p>This updated referral is based on the following additional information:</p> <ul style="list-style-type: none"> • Arboricultural Impact Assessment, Revision C (Bradshaw Consulting Arborists, 25 February 2021) • Flora and Fauna Impact Assessment Report, Version 2.1 (Land Eco Consulting, 1 March 2021)

Internal Referral Body	Comments
	<ul style="list-style-type: none"> Amended Landscape Plans, Issue B (Narelle Sonter Botanica, 26 February 2021) <p>In response to concerns raised during initial assessment, further work has been undertaken to reduce construction-related and ongoing impacts to prescribed native trees on site and within adjoining land. Further assessment against provisions of the NSW Biodiversity Conservation Act 2016 has also been undertaken, with monitoring for microbats and a 'test of significance' for the Pittwater Spotted Gum Forest EEC being undertaken.</p> <p>The results of microbat 'anabat' monitoring indicate that microbats may be traversing the site or nearby areas during foraging trips; however, the ecological report concludes that the detected species are unlikely to be utilising the site as breeding habitat. Furthermore, the amended Flora and Fauna Report provides further detail on the vegetation on site and discusses this in context of the broader local occurrence of Pittwater Spotted Gum Forest EEC. The tests of significance conclude that the proposal is unlikely to result in a significant impact to threatened entities; the Biodiversity referral body concurs with this conclusion (subject to conditions).</p> <p>The updated Landscape Plans appear to include minimal changes in response to previous referral comments, other than proposed retention of two additional trees (T30 and T39). Further amendments to the Landscape Plans are required in order to provide appropriate compensatory plantings (e.g. substitution of WA <i>Corymbia</i> species with a locally native species). This will be conditioned.</p> <p>It is understood that further assessment regarding the extent of prescribed tree removal proposed and compliance with relevant controls will be undertaken by Council's Landscape referral body.</p> <p><u>Comments in regard to original plans</u></p> <p>The Biodiversity Referral Body cannot support the proposal as submitted due to inconsistency with the objectives of Pittwater DCP Clause B4.3 (Flora and Fauna Habitat Enhancement Category 2 Land). Additional information relating to the requirement for assessment under s 7.3 of the NSW Biodiversity Conservation Act 2016 is also requested.</p> <p>Impact to Remnant Canopy Trees</p> <p>This control aims to achieve development which will "retain and enhance habitat for threatened species and endangered ecological communities" and that results in "no net loss in native canopy trees". The proposed development will result in the removal of 11 out of 15 prescribed native trees on the site, eight of which are assessed as being of very high landscape significance and three of high landscape significance. Only four prescribed native trees on the site are proposed for retention. An additional Cabbage Tree Palm (<i>Livistona australis</i>) which is of very high significance but exempt by proximity to the existing building (i.e. not prescribed) is also proposed for removal.</p>

Internal Referral Body	Comments
	<p>The proposal will remove at least 75% of prescribed native trees on site, and potentially impact upon additional native trees within the adjoining road reserves and property. It is noted that retention of significant trees on adjoining land (particularly Trees 21 and 37) relies on specialised tree protection measures such as the application of low-compression foam to roots and additional irrigation during summer. Concern is raised that these measures may allow retention of the trees within the short term but that the extent of TPZ impacts will serve to accelerate the trees' decline and ultimately shorten their natural life expectancy. It is assumed that impacts to neighbouring and road reserve trees will be further addressed by the Landscape Referral Body.</p> <p>The proposal to replace 12 or more remnant native trees with one Western Australian dwarf tree cultivar and one Blueberry Ash is also inconsistent with the objectives of the control.</p> <p>In addition, PDCP Clause B4.3 seeks to retain and enhance threatened species habitat, including built structures which may form roost habitat for threatened microbats. It is not considered that the removal of potential microbat habitat is justified by the statement that "buildings are not protected under the BC Act and therefore can be demolished without assessment" - particularly given that the ecological survey did not establish presence/absence of microbats and that no replacement habitat is proposed.</p> <p>Finally, the ecological report states that PDCP Clause B4.3 does not apply to the subject site and assesses the proposal against a different B4 control. Applicable planning controls must be addressed, as per pre-lodgement advice.</p> <p>Test of Significance for Pittwater and Wagstaffe Spotted Gum Forest EEC</p> <p>The subject site is identified as part of a broader local occurrence of Pittwater Spotted Gum Forest (PCT 1214) in the 'Native Vegetation of the Sydney Metropolitan Area' mapping (OEH, 2016) (Figure 1). Based on this historical mapping, Council provided pre-lodgement advice that the application was to be accompanied by a 'test of significance' for impacts to the Pittwater and Wagstaffe Spotted Gum Forest Endangered Ecological Community (EEC). The ecologist has however determined that vegetation on the subject site is not consistent with the EEC determination, based predominantly on the absence of characteristic Spotted Gum (<i>Corymbia maculata</i>) and Ironbark (<i>Eucalyptus paniculata</i>) canopy dominants, as well as the absence of shale-derived soils. A test of significance for the EEC has therefore not been provided.</p> <p>Whilst the extant canopy layer on the subject site does appear to be dominated by Sydney Red Gum (<i>Angophora costata</i>), it is noted that at least four Spotted Gums were recorded on the adjoining property by a Council Tree Services Officer in May 2018. The submitted arborist report also identifies two Spotted Gums (Trees 42 and 43) on the neighbouring property at the time of inspection in February 2019. These two trees are assessed as</p>

Internal Referral Body	Comments
	<p>being of a similar age to dominant canopy trees on the subject site, suggesting that all trees in this area are part of the same remnant cohort. Thus it is considered that vegetation on the site may represent a transitional community between Pittwater Spotted Gum Forest (PCT 1214) and Coastal Enriched Sandstone Dry Forest (PCT 1181).</p> <p>It is acknowledged that the subject site is located on the periphery of the historically mapped patch (Figure 1). Notwithstanding this, and the fact that vegetation on the subject site may be transitional, this canopy layer is still generally contiguous with vegetation that clearly aligns with the EEC (e.g. Elouera Road). As such, removal of at least 12 native trees from this contiguous patch of vegetation is considered likely to have at least an indirect impact upon the EEC through edge effects and loss of wildlife/pollinator habitat. In accordance with the precautionary principle, it is considered that this impact should be addressed through a test of significance, regardless of whether vegetation on the subject site meets the EEC determination or instead exists as a transitional form intergrading into the non-threatened PCT.</p> <p><i>Figure 1. Mapped local occurrence of Pittwater Spotted Gum Forest (PCT 1214) (OEH, 2016)</i></p> 
NECC (Development Engineering)	<p>REFUSAL - More information required</p> <p>The subject site is bounded by Sanders Lane & Wickham Lane and Bellevue Avenue. The applicant has proposed kerb & gutter on all three road frontages. Provisions of kerb & gutter and road shoulder is generally required for this type of development.</p> <p>There are a number of large trees within the road reserve next to the</p>

Internal Referral Body	Comments
	<p>proposed kerb & gutter. The applicant has proposed a kerb alignment for all three roads.</p> <p>Council's Transport Network (Traffic) and Transport & Civil Infrastructure (Road Asset) comments are requested in regards to the following: :-</p> <ul style="list-style-type: none"> • The acceptable pavement widths for all three roads • The proposed road alignment with reduced road width which is not to the general Council's standards. • Type of kerb that are permitted adjacent to tree such as bitumen kerb in order to reduce excavation and protect the tree roots and stability of the trees • Minimum cross fall of for the pavement. Are one way cross fall permitted in order to reduce excavation. • Impact on existing mature tree. Council's. Parks Assets are requested to provide comments on trees and allowable construction adjacent to the trees. <p>Development Engineers requires comments from Council's Transport Network (Traffic), Transport & Civil Infrastructure (Road Asset) and Park Assets prior to full assessment of this application.</p> <p>Comments from Road Assets, Traffic and Landscaping completed</p> <p>The comments from Council's Traffic Engineer and Landscape Architect indicate that the proposal requires amendment to meet their objectives in terms of the footpath and road design. It is considered that these issues must be referred to the applicant and revised plans submitted for further assessment.</p> <p>In terms of the proposed access driveways to the site, the engineering plans have been reviewed and are acceptable.</p> <p>With regard to the submitted stormwater management plans, the design proposes an on-site stormwater detention (OSD) tank under the habitable floor level of apartment 3 which is not acceptable. A review of the plans indicates that this tank could be relocated under the proposed terrace area of apartment 2 adjacent to the proposed pool. Amended plans detailing the relocation of the tank are to be submitted for assessment.</p> <p>Development Engineers cannot support the application due to insufficient information to address Clauses B5 and B6 of Pittwater 21 DCP.</p>
Road Reserve	<p>APPROVAL - SUBJECT TO CONDITIONS</p> <p>There is limited impact on existing Council road infrastructure however the applicant will need to provide kerb and guttering the public road site frontages (Bellevue Avenue, Sanders Lane, Wickham Lane). A continuously accessible path of travel is available to pedestrians from the development to Council's footpath network. Council's Development Engineering Team to</p>

Internal Referral Body	Comments
	<p>provide conditions regarding same requiring a s138 application for civil works.</p> <p>Given the property address is 27 Bellevue Avenue, consideration should be given to some form of pedestrian access and property identification from the Bellevue Avenue frontage to assist in provision of services (delivery and emergency).</p> <p>The proposal for bin collection to be on Sanders Lane footpath outside Avalon Public School is not supported due to the impact on pedestrian accessibility and safety of pedestrians on bin collection days. Council's Waste Services to review and advise.</p>
Strategic and Place Planning (Urban Design)	<p>APPROVAL - SUBJECT TO CONDITIONS</p> <p>The proposal has addressed the Urban Design issues identified in the Pre-Lodgement meeting:</p> <p>1. Neighbourhood character – As a development that will increase residential density, it should not be out of character with the surroundings. Well-designed buildings respond to and enhance the qualities and identity of the area with appropriate massing and spaces between buildings. The proposed main street elevation to Bellevue Avenue should be setback 6.5m to be comparable with the generally green and lush streetscape. The Wickham Lane elevation should be setback 3.25m as a secondary front setback and the double storey built form be reduced to one as required by SEPP seniors (rear 25% of site to be one storey)</p> <p>The proposed semi-basement parking should similarly be setback 6.5m from the Bellevue Avenue boundary to allow for deep soil landscaping.</p> <p>Response: The proposal has been designed as two pavilions that step down the slope with appropriate massing that is in character with the streetscape. The rear Wickham Lane builtform of a single storey structure cantilevered above the natural ground level is acceptable given the site constraints of a sloping site and existing trees to be retained.</p> <p>2. The pavilion style built form design approach to allow gaps of landscape to separate building blocks is supported.</p> <p>Response: The proposal has been designed as two pavilions with appropriate landscaping separation.</p> <p>3. The possibility of a dual-occupancy development was discussed as issues of footpaths and street kerb construction which involve cutting down substantial number of trees might be minimised. The provision of accessible design will also be more manageable.</p> <p>Response: The proposal has allowed existing trees to be retained and accessible design has been incorporated.</p>
Traffic Engineer	<p>APPROVAL - SUBJECT TO CONDITIONS</p> <p>Referral comments 2/3/20</p>

Internal Referral Body	Comments
	<p>Concerns were previously raised regarding waste collection and access for vehicles, road and pedestrian infrastructure, and the proposed mechanical car stacker system. Some of these issues have been addressed on the updated plans or can be conditioned as part of the Conditions of Consent.</p> <p>Road and Pedestrian Infrastructure</p> <ul style="list-style-type: none"> - A 1.5m footpath is required for the full frontage along Wickham Lane. Kerb ramps are required on both sides of Wickham Lane at the intersection with Sanders Lane for pedestrian access across the laneway. - A 1.5m footpath is required along the frontage of Bellevue Avenue. The footpath should extend 10m north of the Sanders Lane property boundary, with the provision of new kerb ramps on both sides of Bellevue Avenue for pedestrians to cross the road. Additional works would be required on the western side of Bellevue Avenue including retaining structures and footpath widening to enable the incorporation of the new kerb ramp on this side of the road. A new kerb ramp is also required at the corner of Bellevue Avenue and Sanders Lane for pedestrian access across the laneway. - The footpath connection to the bus stop located along Old Barrenjoey Road, is not fully accessible. Upgrades to the footpath is required to comply with the SEPP accessibility and gradient requirements. The access route to the transport facilities should be along the northern side of Sanders Lane and not the southern side as indicated in the survey. This connection provides safer access for pedestrians exiting the development by crossing Wickham Lane (less traffic flow and vehicle turning movements) instead of Sanders Lane. This will also prevent any works on the southern side of Sanders Lane where there is high pedestrian use of the footpath and minimises impacts to the School frontage during the construction period. <p>Design road widths:</p> <p>Sanders Lane - Minimum 5.1m wide</p> <p>Bellevue Avenue - 7.5m wide between kerbs</p> <p>Wickham Lane</p> <ul style="list-style-type: none"> - 4m wide (north of driveway to lower level car park) - 4.5m wide (from Sanders Lane to 10m north of intersection), to enable right turn from Wickham Lane into Sanders Lane for waste vehicles

Internal Referral Body	Comments
	<p>Waste collection</p> <p>The storage area for garbage bins has been relocated to the lower parking level. An accessible path separated from the driveway is to be provided from the storage area to the bin collection point in the laneway. Council's Transport Network team are currently investigating a proposal to convert Wickham Lane to 'One Way' for all vehicular traffic only in the southbound direction. The nature strip on the eastern side of Wickham Lane, between the kerb and property boundary of No.15 Old Barrenjoey Road, is to be infilled with concrete to provide a hardstand area, to enable collection by side loading waste vehicles. Realignment of the eastern kerb on Wickhma Lane is required to facilitate waste vehicles turning right into Sanders Lane.</p> <p>Mechanical car stacker system</p> <p>The car stacker system which requires the upper car to be removed for lower car access is not ideal, however is similar to arrangements for tandem parking so is therefore considered acceptable.</p> <p>Construction Traffic Management Plan</p> <p>The management of construction traffic is to be addressed in the approval of the Construction Traffic Management Plan, which would provide specific details regarding construction vehicle access to and from the site. However, construction activities affecting vehicle and pedestrian traffic will be restricted between 9.00-10.00am and 2.45-4.00pm on School Days.</p> <p>The revised proposal is acceptable, subject to conditions as recommended.</p> <p>Referral comments 7/12/20</p> <p>The proposal is not acceptable in its current form due to traffic, pedestrian and parking issues. The traffic generation is insignificant with minor impact to the existing road network. The Applicant needs to address and consider the following information prior to resubmitting the proposal.</p> <p>Wickham Lane One Way</p>

Internal Referral Body	Comments
	<p>Council's Transport Network team are currently investigating a proposal to convert Wickham Lane to 'One Way' for all vehicular traffic only in the southbound direction. Bicycles will continue to be able to travel in both directions. Additional information with swept paths are required to demonstrate that larger vehicles including waste vehicles (minimum 10.5m in length) can safely turn right from Wickham Lane into Sanders Lane without mounting the proposed kerb and affecting pedestrian access and safety at the south-eastern corner of the site. The truck movements must not impact existing parking located on the southern side of Sanders Lane.</p> <p>Waste collection</p> <p>Both Waste Services and Assets have already raised issues with the proposed bin collection from Sanders Lane. This is not supported due to the impact on pedestrian accessibility and safety of pedestrians along the footpath outside Avalon Public School. The Accessibility Report also indicates that the accessway from Apartments 2 and 3 to Sanders Lane is approximately 1:8 and suitable for vehicle access only. The gradient is not accessible for pedestrians or the transfer of bins from the storage area to the kerb for collection.</p> <p>Road and Pedestrian Infrastructure</p> <p>Kerb and gutter is to be provided along Wickham Lane, Sanders Lane and Bellevue Avenue.</p> <p>Design road widths:</p> <p>Wickham Lane - 4m wide between kerbs</p> <p>Sanders Lane - 5.5m wide, however minimum 5.1m permitted due to impact on existing trees</p> <p>Bellevue Avenue - 7.5m wide between kerbs</p> <p>The proposal includes upgrades to pedestrian access and footpath connections at the south-eastern corner of the site, however no measures are proposed to improve pedestrian facilities at other locations. Council's</p>

Internal Referral Body	Comments
	<p>DCP also requires that footpaths be provided along the full frontage of the site, however it is understood that this may not be feasible due to existing site impacts. As a minimum, the Applicant is required to provide new kerb ramps and footpaths at the western end of the site to enable pedestrians to cross and link to the existing footpath, with a new crossing point to be located 10m north of Dress Circle Road. Additional works within Council's Public Road Reserve including any retaining structures may be required on the western side of Bellevue Avenue to enable modifications to the existing footpath and incorporation of the new kerb ramp. The provision of a 1.5m wide footpath is required to connect the two new kerb ramps located on the eastern side of Bellevue Avenue.</p> <p>Mechanical car stacker system</p> <p>The proposal includes a mechanical car stacker system to provide for parking to Apartments 2 and 3 which is accessed off Sanders Lane. The Traffic & Parking report indicates that the lower platform head height is 1.6m and the upper level platform head height is 1.9m, which deviates from the Clause 5.3.1 of AS2890.1, where a minimum of 2200mm between the floor and overhead obstruction is required. The report states that this is acceptable for a smaller vehicle to park on the lower platform and a larger vehicle for the upper platform. However, the reduced height of 1.6m does not take into consideration the comfort of seniors with existing health issues or who may be taller than 1.6m, resulting in difficulties exiting between the vehicle and the car stacker system. Appendix B of the Standard, Section B6 Headroom, states that the clear height between floors must also cater for persons walking with reasonable comfort and safety, and the 99th percentile height of the Australian male is 1.88m. It is therefore recommended that for Seniors living that an appropriate minimum head height for the mechanical car stacker system should be 1.9m. This minimum requirement will affect the overall pit depth, and may also require adjustments to the levels to access the stacker system.</p>
Waste Officer	<p>REFUSAL</p> <p>Updated Waste Services Referral - Amended plans received 1/3/2021 through Tom Prosser)</p> <p>Recommendation – Refusal</p> <p>Bin storage facility is to be provided in accordance with Councils design guidelines.</p> <p>Specifically:</p>

Internal Referral Body	Comments
	<p>A separate and unobstructed 1200mm wide pedestrian path between the Waste Storage Area and Collection Point at the kerb that is separate to vehicle access must be constructed to allow Council and its agents safe passage and unrestricted access.</p> <p>The waste storage room must be within 6.5 metres walking distance from the property boundary with the street</p> <p>The opening width of the doorway to the waste storage room from the street is less than the required width. Any doors fitted on the Residential Waste Storage Area, pathway and access must be:</p> <ul style="list-style-type: none"> a) A minimum opening width of 1200mm. b) Must open outwards and be able to be latched in an open position c) Unobstructed by any locks and security devices. <p>No plant or infrastructure such as utility meters, pumps, air conditioning compressors etc is permitted to be located in the bin room.</p> <p>As this is a multiple occupancy proposal Council will be providing a “wheel out / wheel in” service for the bins. The owners corporation / building occupants are not to place the bins at the kerbside for collection.</p> <p>For the applicant’s information:</p> <p>Please note that there is more than sufficient space in the waste storage area for the required number of bins.</p> <p>The requirement for the shared Waste Storage Area is to have a minimum area for 4 containers (240L waste and recycling bins). The dimensions for 240L bin are: · Depth: 750mm · Width: 600mm · Height: 1060mm</p> <p>Waste Services Referral</p> <p>Recommendation – Refusal</p> <p>Specifically:</p> <p>Bin collection cannot be undertaken from Saunders Lane. The applicant is required to design a system for bin collection to occur from Bellevue Avenue or Wickham Lane bearing in mind that the system proposed is suitable for a development for seniors or people with a disability, which could include residents in wheelchairs.</p> <p>The applicant may choose from the following 2 options:</p> <ul style="list-style-type: none"> 1) A set of 4 individual bins per dwelling - Residents will be required to self-present the bins for collection to Bellevue

Internal Referral Body	Comments
	<p>Avenue or Wickham Lane</p> <p>The Waste Storage Area must have a minimum area for 4 containers (waste and recycling bins) per dwelling. The quantities and dimensions for each container are:</p> <p>80L: · Depth: 510mm · Width: 465mm · Height: 825mm</p> <p>140L: · Depth: 630mm · Width: 550mm · Height: 915mm</p> <p>240L: · Depth: 750mm · Width: 600mm · Height: 1060mm</p> <p>2) A set of communal bins for 3 dwellings</p> <p>- Council will provide a wheel in / wheel out to communal Waste Storage Area with street access to Bellevue Avenue or Wickham Lane</p> <p>The shared Waste Storage Area must have a minimum area for 4 x 240L containers (waste and recycling bins). The dimensions for each 240L bin are Depth: 750mm; Width: 600mm; Height: 1060mm</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1133741M).

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

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	35	35

If recommended for approval, a condition may be included in the recommendation of this report requiring an updated BASIX certificate in accordance with the amended plans, and compliance with the commitments indicated in the BASIX Certificate.

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

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

Chapter 1 – Preliminary

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

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

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

Comment:

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

In relation to (b), the proposal provides efficient use of exiting infrastructure and services as access is provided to and from the site via footpaths and close proximity to bus stops. However, further information is required in regard to comments provided by Council's Traffic officer in regard to design of footpaths and road design along Wickham Land and Bellevue Avenue.

In relation to (c), the proposal involves a good design with respect to the provisions of local policies and the the SEPP HSPD in terms of the stepping and articulation of the built form, considerations of access, internal amenity and amenity impacts. However, the proposal does not provide a suitable design in terms of integration of natural features with the built form or suitable design of waste facilities. In particular, Council's Landscape officer is not satisfied as to the long term retention of trees, and Council's Waste officer is not satisfied that the design for Waste meets Council's guidelines.

Chapter 2 – Key Concepts

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

As such, the proposed development is considered consistent with Chapter 2 of SSEPP (HSPD).

Chapter 3 – Development for seniors housing

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

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The proposal provides appropriate access to the provisions through bus access which complies with the requirements under Clause 26(2), being bus stops along Old Barrenjoey Road. The site also has access to Avalon Beach village Centre which is within 400m.	Yes.
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	The proposal is within 400m of Avalon Bach Centre, and also within 400m of bus stops along Old Barrenjoey Road, Bellevue Avenue and Avalon Parade.	Yes.
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The subject site is not in bush fire prone land.	N/A
28	Consideration is given to the suitability of the	Reticulated water and sewerage infrastructure is presently available to the	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	site with regard to the availability of reticulated water and sewerage infrastructure.	site. The proposed seniors housing development is capable of connecting to a reticulated water system, in accordance with the provisions of Clause 28.	
29	<p>Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25 (5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>The development is considered against the requirements contained within Clause 25 (5) for the following reasons:</p> <p>i) The site is located within a low density residential area where there is a mix of historical building forms including detached dwellings, other residential development, and nearby businesses/shops along Old Barrenjoey Road. Notwithstanding this, the site and the adjoining properties are screened by often dense vegetation. The proposal does not provide proper consideration through building design for the future retention and enhancement of environmental features to maintain this established natural character.</p> <p>iii) The Applicant has provided an Access Report to support the proposal and Council's Traffic officer supports the application subject to some suggested amendments.</p> <p>v) The proposed development includes 3 apartments constituting of 3 bedrooms and basement parking structure for 6 vehicles. The proposed bulk and scale of the development reasonable given the compliant FSR of 0.5:1, and substantial stepping, modulation, and articulation of building bulk. However, the proposal does not provide an appropriate response to surrounding character due to the lack of an appropriate design for tree retention.</p>	No - inconsistent with (i)
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis has been provided to meet the requirements of this clause.	Yes

Clause 31 Design of in-fill self-care housing

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

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in

Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>The proposed development provides a two-three storey development with basement parking. The building form represents a well distributed building mass that is well stepped across the site. However, there is not appropriate integration with the natural environment or an achieved balance between landscapes and built form.</p> <p>The Desired Character for the Avalon Beach locality is identified as:</p> <p><i>"The most important desired future character is that Avalon Beach will continue to provide an informal relaxed casual seaside environment. The locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity, fewer hazards and other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community."</i></p> <p>The proposed built form is consistent with the desired character of the locality which seeks low density development forms. However, the proposal does not ensure that an appropriate landscaped setting will</p>

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

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

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	The Avalon Beach Locality statement provides the following identification of character: The residential areas are of mixed style and architecture, with a commonality being	No

Control	Requirement	Proposed	Compliance
		landscaped boundaries and treed frontages.	
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	Although the proposed development will maintain a building height limit below the tree canopy and minimise bulk and scale. The impact on vegetation surrounding the site is unacceptable. Not applicable.	N/A
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.	The proposed development provides compliant side setbacks to the upper levels, and provides articulation in the built form in order to minimise amenity impact. The built form also steps down with the topography of the site so that the building height and bulk does not result in any unreasonable amenity impact such as overshadowing. Further, the building heights at the street frontages provide a stepped presentation to adequately reduce the presentation of built form in the streetscape.	Yes.
	d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	The proposed front setbacks (front and secondary front), provide setbacks that involve sufficient articulation, a compliant building height, and integration of landscape features such as planter boxes. However, Council's	No.

Control	Requirement	Proposed	Compliance
	<p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>Landscape officer has provided that a greater setback should be provided from the tree in Wickham lane. In relation to this requirement, Council's Landscape Architect provided the following assessment:</p> <p><i>"The Landscape Plan is generally suitable except that no tall canopy trees are proposed as replacement trees for canopy loss and thus the built form is not softened. Within the rear setback facing Wickham Lane insufficient deep soil area is available, and within the front setback facing Bellevue Avenue limited deep soil area if available to support tall canopy trees typical of the Avalon locality."</i></p> <p>The proposed development seeks removal of 8 native species and 4 exempt species. Concerns are raised over the potential impact on a high retention Sydney Red Gums (T21, T23 and T33). The Landscape assessment of this application does not support the proposal due to impact on vegetation and landscape character.</p> <p>The site is not within a riparian zone.</p>	
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and	<p>The proposed north, south and west elevations provide suitable design of openings and appropriate physical separation from neighbouring properties to ensure overlooking impact would be suitably minimised in these locations.</p> <p>If granted approval, a condition would be</p>	Yes.

Control	Requirement	Proposed	Compliance
	landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	recommended to require further screening to the eastern elevation given the proximity to residential development on the opposite side of Wickham Lane. It is also noted that Council's Landscape officer has concern in regard to the retention of Tree 33 which assists in providing screening of the eastern elevation. A condition may also be applied in regard to the control on noise both during construction and operation.	
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	The solar diagrams submitted with the application indicate that 100% of the apartments receive a minimum of 3 hours sunlight at winter solstice.	Yes.
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Council's Development Engineer has raised concern in relation to the proposed stormwater and OSD design.	No
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors	The proposal involves three units with sufficient and separate ground level access. The proposal also involves various openings which	Yes

Control	Requirement	Proposed	Compliance
	and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	provide opportunity for passive surveillance.	
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development has demonstrated that compliant access can be provided from the site to the closest public transport links to access essential services. These arrangements are subject to conditions and amendments required by Council's Traffic officer and development engineer.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The proposed waste storage area does not satisfy the requirements of Council's Waste Management Guidelines.	No

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1000 sqm	1214m ²	Yes
Site frontage	20 metres	20.1m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Maximum 2 storeys	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height	Section of building toward Wickham Lane is 2 storeys in height (apartment 3)	No

Clause 41 Standards for hostels and self contained dwellings

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

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	Complies in accordance with the Access Report	Yes
Security	Pathway lighting (a)	Lighting may be conditioned	Yes

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

Control	Required	Proposed	Compliance
	wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.		
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Complies in accordance with the Access Report	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Complies in accordance with the Access Report	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Complies in accordance with the Access Report	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Complies in accordance with the Access Report	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Complies in accordance with the Access Report	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Complies in accordance with the Access Report	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Complies in accordance with the Access Report	Yes

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

Part 5 Development on land adjoining land zoned primarily for urban purposes

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m	Yes
Density and scale	0.5:1	0.5:1	Yes
Landscaped area	30% of the site area is to be landscaped	42.8%	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site.	18.5%	Yes

Control	Required	Proposed	Compliance
	Each area forming part of the zone should have a minimum dimension of 3 metres.		
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	A minimum 3 hours solar access is achieved to all living areas and private open space between 9am and 3pm on 21 June.	Yes
Private open space	<p>(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area</p>	Complies	Yes
Parking	(10 bedrooms proposed – 5	The requirement is for 4.5 spaces and the	Yes

Control	Required	Proposed	Compliance
	carparking spaces required)	proposal involves 6 spaces.	
Visitor parking	None required if less than 8 dwellings	3 dwellings proposed	Yes

SEPP (Infrastructure) 2007

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

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
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:	8.5m	8.5m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Clause 40(4) (c) SEPP (SHPD) requires development in the rear 25%
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	area of the site not to exceed 1 storey in height.
Proposed:	Apartment 3 -The rear section of Apartment 3 has a 3m projection in to the rear setback
Percentage variation to requirement:	The area that breaches the 25% equates to 20% breach of the requirement.

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 40 (4) (c) SEPP (SHPD) - Maximum 1 storey within the rear 25% development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

Comment:

Clause 40 (4) (c) SEPP (SHPD) - Maximum 1 storey within the rear 25% development standard is not expressly excluded from the operation of this clause.

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

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

Clause 4.6 (4)(a)(i) (Justification) assessment:

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

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

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

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

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

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

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*

- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicants written request argues, in part: the development will present generally as a single storey building due to the eastern building being at its lowest at the end of the site, and due to screen planting.

In detail, the rear section of apartment 3 equates to a 3m area of the 25% site back area which represents a 20% breach the control. In addition, the applicant notes the following:

- No. 15 Old Barrenjoey Road provides a two storey presentation in the nearby B2 Local Centre zone. This ensures the proposal would not be visually jarring.
- By nature, seniors housing provides functional requirements that will not necessarily look like single dwellings. Despite this, the proposal provides complementary design features with a high degree of modulation and articulation.
- The proposal complies with a majority of other building controls under relevant policies.
- There are no adverse solar access impacts.
- The rear storey breach does not cause any additional privacy impact.
- The rear storey facilitates car parking so that less excavation is required.
- The additional storey is partially a function of the slope across the site.

Comment:

The Applicant's justification is generally supported. The elements that breach the first floor 25% rear setback standard will not give rise to unreasonable visual or amenity impacts, and provide a presentation more akin to one storey that is also compatible with surrounding properties.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

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

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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Maximum 1 storey within the rear 25% development

zone. An assessment against these objectives is provided below.

Objectives of development standard

CLAUSE 40 (4) (c) of the SEPP HSDP

While there is no specific objective to the standard within Clause 40(4) the primary purpose of the single storey limit within the rear 25% single storey zone is to limit the bulk and scale of a building to protect the amenity of the rear of adjoining properties. Placing built form into the rear of a property which generally forms part of its open space and adjoins the open space of other properties to the side and rear can have significant impacts on amenity not only from loss of solar access, privacy and views but also from the presence of increased or new building bulk and the removal of landscaping. An assessment of this purpose is provided below. In addition, given that there is no specific objective to Clause 40(4) (c) it is also worth assessing the development against the objectives as prescribed by Clause 4.3 - "Height of Building" of the PLEP to relevantly determine the suitability of the non-compliance associated with the proposed development.

The objectives of Clause 4.3 are as follows:

(a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,

Comment:

The height of the proposed seniors housing development is compatible with surrounding and nearby developments which includes one and two storey dwellings as well as nearby businesses along Old Barrenjoey Road. The substantial modulation and articulation of the built form, including the breaking-up of the mass of the buildings (in to two parts) will ensure the development will match the desired character when viewed from the adjoining and nearby public spaces.

The development is consistent with this objective.

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposal is in close vicinity to a range of residential and business development that also has a range of height, bulk and scale. As such, the proposal for a two storey section of the proposed development at the rear, will be compatible with the height and scale of surrounding and nearby development.

(c) to minimise any overshadowing of neighbouring properties,

Comment:

The solar diagrams submitted with the application indicate that 100% of the apartments receive a minimum of 3 hours sunlight at winter solstice. Along with the compliant side setbacks to the upper level, this shows overshadowing to neighbouring properties is appropriately minimised.

(d) to allow for the reasonable sharing of views,

Comment:

The proposal provides compliant side setback to the upper level, and provides a compliant building height. This ensures that appropriate view corridors are provided through the site.

The development is consistent with this objective.

(e) to encourage buildings that are designed to respond sensitively to the natural topography

Comment:

The development involves two buildings that step down with the topography of the site. The basement car parking (at the location of the two storey breach) also minimises excavation to respond sensitively to the topography of the land.

(f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

Comment:

The substantial modulation and articulation of the built form, and compliant building height ensures that the built form would not have any unreasonable impact on the natural environment, heritage conservation areas and heritage items.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

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

Comment:

The proposed seniors housing development achieves this objective as it provides for the ho

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

Comment:

Senior's housing provides for day to day needs of residents.

- ***To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.***

Comment:

The proposed development provides articulation and modulation of built form to ensure a low intensity and scale of development to be compatible with surrounding uses.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

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

Planning Circular PS 18-003 dated 21 February 2018 issued by the NSW Department of Planning & Infrastructure, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the 25% rear single storey zone SEPP Standard is assumed by the NBLPP as the development contravenes a numerical standard by more than 10%.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	4m (car parking) - 6.5m (apartment 1)	N/A	No (see comments)
Secondary Street Frontage	3.25m	3.25m	N/A	Yes (see comments)
Side building line (multi dwelling housing)	3m	3m	N/A	Yes
	3m	3.1m	N/A	Yes
Building envelope	3.5m	Within	N/A	Yes
	3.5m	Within	N/A	Yes
Landscaped area	50%	42% 520m ²	N/A	No (however, compliant with SEPP)

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
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.3 Greywater Reuse	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	No	No
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
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	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	No
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	No	No
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	No	No
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	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	No	Yes
D1.16 Fences - Flora and Fauna Conservation Areas	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

B5.7 Stormwater Management - On-Site Stormwater Detention

Council's Stormwater officer has provided the following comment with regard to OSD:

"With regard to the submitted stormwater management plans, the design proposes an on-site stormwater detention (OSD) tank under the habitable floor level of apartment 3 which is not acceptable. A review of the plans indicates that this tank could be relocated under the proposed terrace area of apartment 2 adjacent to the proposed pool. Amended plans detailing the relocation of the tank are to be submitted for assessment."

B6.2 Internal Driveways

Council's Engineer has indicated that the requirements of Council's Traffic Engineer and Landscape officer would result in amendments that need further consideration by Council's Development Engineer, prior to a recommendation of approval with conditions.

C1.1 Landscaping

Council's Landscape officer does not support the application due to the lack of design to show that significant trees can be retained into the future. As such, the proposal does not provide an appropriate outcome for Landscaping on site.

C1.5 Visual Privacy

The proposed north, south and west elevations provide suitable design of openings and appropriate physical separation from neighbouring properties to ensure overlooking impact would be suitably minimised in these locations.

If granted approval, a condition would be recommended to require further screening to the eastern elevation given the proximity to residential development on the opposite side of Wickham Lane. It is also noted that Council's Landscape officer has concern in regard to the retention of Tree 33 which assists in providing screening of the eastern elevation.

C1.12 Waste and Recycling Facilities

Council's Waste officer has stated that the proposal does not meet Council's guidelines. In particular, the bin area is not of a sufficient size, does not have an accessible path and is not within an appropriate distance to the street.

C1.21 Seniors Housing

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

outcomes of the control include:

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

Controls

Cumulative Impact

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

-Be in keeping with the development of the surrounding area in regard to bulk, building height, scale and character.

-Not result in such an accumulation of Seniors Housing developments to create a dominant social type in the surrounding neighbourhood.

-Not result in such an accumulation of Seniors Housing developments to create a dominant 'residential flat building' appearance in the neighbourhood.

In terms of the development's response to the outcomes and controls of this requirement, it is noted that there are not any Seniors housing developments within close proximity to the site. The appearance of this development in the nearby streets provides a presentation that is not overbearing or dominant due to sufficient stepping and articulation. This ensures an appropriate response and complementary nature with the surrounding residential development rather than a presentation of a dominant 'residential flat building style' appearance.

However, the impact on natural vegetation and the lack of opportunity for long term retention (as provided by Council's Landscape Officer) provides a circumstance in which the proposal does not appropriately protect the landscaped setting and character of the area.

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

C1.24 Public Road Reserve - Landscaping and Infrastructure

A variation to the requirement of a footpath along Sanders Lane is reasonable due to the , lack of width available for a footpath (particularly at the corner of Sanders Lane and Wickham Lane), tree removal required, and relatively low density of the housing (3 units).

D1.8 Front building line

Description of non-compliance

The proposal involves a varied front building line of 4m-6.5m, and a secondary building line of 3.25m. The numerical requirement is for front setbacks is 6.5m and 3.25m for the secondary street frontage (if the outcomes are achieved).

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 a well modulated and articulated built form. However, the concern raised by Council's Landscape officer in regard to tree retention, results in inadequate protection of the landscape setting (as identified as a key issue in the character statement).

The amenity of residential development adjoining a main road is maintained. (S)

Comment

The proposed development is sufficiently separated from surrounding roads to ensure amenity is appropriately maintained. Further, Council's Traffic engineer provides recommendations for changes that could ensure an appropriate relationship between the development and roads.

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

Comment

Council's Landscape officer has provided concern with the retention of a tree in the secondary street frontage. As such, the proposal does not provide a sufficient design so that vegetation in this setback can be retained to reduce the built form.

Vehicle maneuvering in a forward direction is facilitated. (S)

Comment

The proposal involves swept paths which have been reviewed by Council's Traffic officer. As a result, Council's Traffic officer is satisfied with vehicle maneuvering.

To encourage attractive street frontages and improve pedestrian amenity.

Comment

The proposal will enhance the existing street frontage by providing a development with an appropriate bulk and style for the streetscape. However, concern with tree retention raised by Council's Landscape officer results in a situation in which an attractive street frontage may not be maintained.

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 responds to the spatial characteristics of the existing urban environment by providing sufficient parking and presentation of built form.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1.13 Landscaped Area - General

The proposal provides a landscaped area of 42.8% which does not comply with the control under the DCP requiring 50%. However, Clause 50 of the SEPP HSPD provides that development cannot be refused on the basis of landscaped area if the proposal meets the development standard under the SEPP (30%).

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

A monetary contribution of \$49,983 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$4,998,272.

CONCLUSION

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

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

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

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

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

This report provides an assessment of the application for the redevelopment of the site as a seniors housing development containing 3 units.

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

Public Exhibition

The public exhibition of the DA resulted in a large response from the community. Objections to the

proposed development include concerns relating to impact on trees, traffic, safety, impact on character, non-compliance with planning controls and non-compliance with SEPP HSPD.

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

While it is acknowledged that the Applicant has submitted some amended plans seeking to address the issues raised by Council in its referral comments and issues letter, the amendments were not sufficient to address issue raised by Council's Landscape Officer and Council's Waste Officer. Further to this, Council's Development Engineer has provided that further information is required to complete a full assessment. This includes information to show the amendments made by Council's Traffic engineer (through recommended conditions).

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

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

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No DA2020/1162 for the Demolition works and construction of three senior's living apartments with parking on land at Lot 33 DP 11462,27 Bellevue Avenue, AVALON BEACH, for the reasons outlined as follows:

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

Clause 29 Character
Clause 31 Design of in-fill self-care housing
Clause 32 Design of residential development
Clause 33 Neighbourhood Amenity and streetscape
Clause 36 Stormwater
Clause 38 Accessibility
Clause 39 Waste Management
2. 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 B6.2 Internal Driveways of the Pittwater 21 Development Control Plan.
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 C1.1 Landscaping of the Pittwater 21 Development Control Plan.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.12 Waste and Recycling Facilities of the Pittwater 21 Development Control Plan.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1.21 Seniors Housing of the Pittwater 21 Development Control Plan.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D1.8 Front building line of the Pittwater 21 Development Control Plan.