

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2024/0252
<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 1 DP 373531, 1955 Pittwater Road BAYVIEW NSW 2104 Lot 1 DP 1047205, 1955 Pittwater Road BAYVIEW NSW 2104
<b>Proposed Development:</b>	Modification of Development Consent DA2019/0154 granted for Demolition works and construction of a seniors housing development
<b>Zoning:</b>	R2 Low Density Residential RE1 Public Recreation
<b>Development Permissible:</b>	Yes, under SEPP (Housing for Seniors or People with a Disability) 2004
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	Yes
<b>Applicant:</b>	Dylan Hamman

<b>Application Lodged:</b>	21/05/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	29/05/2024 to 12/06/2024
<b>Advertised:</b>	29/05/2024
<b>Submissions Received:</b>	5
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

This modification application seeks consent for modification of Development Consent DA2019/0154 which granted consent for demolition works and construction of a seniors housing development. The modifications primarily relate to converting the approved storage area of Unit 1 to a bedroom, ensuite and bathroom, changes to windows in Unit 2 terrace area between the terrace and void area, and internal changes to Unit 4 to create a larger bathroom and relocation of the laundry.

The application is referred to the Development Determination Panel (DDP) due to five (5) objections

received.

Concerns raised in the objections predominantly relate to the increase of gross floor area, conversion of the storage area to a bedroom, disabled access, previous conditions of consent, incremental approvals, and whether the works are substantially the same.

The modifications propose an increase in FSR under Clause 50 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)), which is the applicable planning instrument, given the savings provisions of SEPP Housing. The increase in FSR has been found to be acceptable as the modifications do not propose any increase in building bulk nor does it increase the footprint of the dwelling.

Overall, it is considered that the proposed works that are located wholly within the approved building footprint are acceptable, and will not result in any unacceptable environmental or amenity impacts.

This report concludes with a recommendation that the DDP grant approval to the modification application, subject to modified conditions.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed modification works to DA2019/0154 comprise of the following:

### Lower Ground Floor

- Reconfiguration of Unit 1 to create a new bedroom, WIR and ensuite in the existing storage area, along with a new bathroom and laundry area. The reconfiguration results in a new window servicing the new laundry;

### Ground Floor

- Glazing adjustment on Unit 2 terrace area between the terrace and void area; and

### First Floor

- Reconfiguration of Unit 4 to create a larger bathroom and relocate the laundry to the void area.

## **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

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S4.15 Assessment  
Pittwater 21 Development Control Plan - C1.15 Storage Facilities

## SITE DESCRIPTION

<b>Property Description:</b>	<p>Lot 1 DP 373531 , 1955 Pittwater Road BAYVIEW NSW 2104</p> <p>Lot 1 DP 1047205 , 1955 Pittwater Road BAYVIEW NSW 2104</p>
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the south-western side of Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 32.64m along Pittwater Road and a depth of 43m. The site has an area of 1296.5m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and is currently under construction pursuant to DA2019/0154 approved for a seniors housing development.</p> <p>The site falls approximately 12m from the south towards the north.</p> <p>The site is generally free of any vegetation due to ongoing construction works. Three canopy trees are located in the street verge along with ground-cover vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by predominantly 1-3 storey dwelling houses. St Luke's Primary School is located nearby to the west and Bayview Anchorage Marina nearby to the east.</p>

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### **DA2019/0154**

Development Application for Demolition works and construction of a seniors housing development was refused on 16/10/2019 by the Northern Beaches Local Planning Panel. The determination was appealed to the NSW Land and Environment Court which upheld the appeal with amended plans on 28/07/2020 after a conciliation conference between Council and the applicant.

### **Mod2021/0101**

Modification Application for Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development.  
Approved on 12/05/2021 by Council staff.

### **Mod2021/0343**

Modification Application for Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development.  
Approved on 27/07/2021 by Council staff.

### **BC2023/0102**

Building Information Certificate (149D Unauthorised) - Shotcrete retaining walls and their associated capping beams carried out in relation to the approved residential flat building and its accompanying carparking facilities.  
Approved on 14/08/2023.

### **Mod2022/0471**

Modification Application for Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development.  
Approved on 13/09/2023 by Development Determination Panel.

## APPLICATION HISTORY

Following the preliminary assessment of the application, Council requested additional information in relation to the request for an Access Report, and an assessment against the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Amended plans and an Access Report were subsequently submitted by the applicant. The changes to the plans included the switching of the location of the proposed Laundry and Bathroom on the Lower Ground Floor Plan, and minor amendments to the door circulation area within Units 1 & 4 as requested by the Access Consultant.

The amended plans constitute an unaltered environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

Notwithstanding the provisions of the CPP, the objectors were informed of the amended plans via written email correspondence.

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

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2019/0154, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.56- Other Modifications	Comments
(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0154.</p> <ul style="list-style-type: none"><li>• The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2019/0154.</li></ul>

Section 4.56- Other Modifications	Comments
modified (if at all), and	<ul style="list-style-type: none"> <li>• The proposed changes are limited to internal changes and as such will not result in any change in visual appearance from the adjoining sites or streetscape.</li> <li>• It is considered that in terms of both a qualitative and quantitative comparison, the modified development remains substantially the same as that which was approved by DA2019/0154.</li> <li>• As such, it is considered that the internal changes are consistent with characterisation and fundamental outcome of the development as approved under the Development Consent.</li> </ul>
<p>(b) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2019/0154.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on “Notification & Submissions Received” in this report.

## Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>Part 4, Division 2 of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 29 of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p>Clauses 36 and 94 of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to an Access Report, and an amended Statement of Modification addressing the <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>.</p> <p>Clause 61 of the EP&amp;A Regulation 2021 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>Clauses 62 and/or 64 of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 69 of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the 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 application has been publicly exhibited from 29/05/2024 to 12/06/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mr Gavin Alan Arthur Rea	1961 Pittwater Road BAYVIEW NSW 2104
Mr Peter William Gorian	60 Alexandra Crescent BAYVIEW NSW 2104
Mr Leonard William Baillie	58 Alexandra Crescent BAYVIEW NSW 2104
Mr Geoffrey Michael Ross Kathryn Anne Wheeler	83 Alexandra Crescent BAYVIEW NSW 2104



Name:	Address:
Mr Richard Pearce	52 Alexandra Crescent BAYVIEW NSW 2104

The following issues were raised in the submissions:

- **GFA Increase**
- **Conversion of a Store Room to a Bedroom**
- **Additional Bedroom**
- **Proper Disabled Access**
- **Noise Concerns**
- **Water Problem**
- **Condition 28A (Access and Facilities for Persons with Disabilities)**
- **Condition 28C (Amendments to the approved plans)**
- **Condition 72 (Plant Noise)**
- **Condition 74 (Use of "Lower Ground Floor storage areas")**
- **Plans are Inconsistent with Construction**
- **Substantially the Same Test**
- **Incremental Approvals**
- **Plans are Inconsistent with Construction**

The above issues are addressed as follows:

- **GFA Increase**

*The submissions raised concerns that it appears the Mod plans show an increase in GFA beyond the L&E Court approval.*

Comment:

The proposal seeks to increase the GFA as detailed throughout the report. The increase of GFA has been considered under Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. As such, the increase of FSR is considered acceptable, as the building footprint remains unaltered and therefore will not present any unacceptable environmental or amenity impact, despite the numerical non-compliance that results.

- **Conversion of a Store Room to a Bedroom**

*The submissions raised concerns surrounding the conversion of a Store room to a bedroom in Unit 1.*

Comment:

The application is accompanied by an Access Report detailing the acceptability of converting the storage room to a bedroom in Unit 1. As such, there are no concerns raised surrounding the conversion of this space, as the modified development remains consistent with the requirements of Schedule 1.

- **Additional Bedroom**

*The submissions raised concerns that the plans provided do not include a floor plan or a section through this additional bedroom to allow the solar and fresh air access or overlooking to be reviewed and the Lower Ground Floor plan showing the change from Store to bedroom show solid walls, from this is could be assumed no solar or fresh air access is provided.*

Comment:

Drawing No.DA.405 prepared by A Plus Design Group details Unit 1 Internal Elevations/Sections that depicts the proposed sliding door to the additional bedroom in Unit 1 that allows for fresh air and solar access. Furthermore, Drawing No. DA.203 details the Lower Ground Floor Plan and shows the location of the sliding door in the additional bedroom in Unit 1.

- **Proper Disabled Access**

*The submissions raised concerns surrounding the proper disabled access.*

Comment:

The proposal is accompanied by an Access Report (prepared by Cheung Access Pty Ltd Trading As Inclusive Places dated 25 June 2024). As such, the Access Report confirms the plans are compliant with the Performance Requirements of the Disability (Access to Premises-Buildings) Standards 2010 and Part D3 and E3.6 of the Building Code of Australia (BCA) (2019 Amendment 1) and the requirements of Schedule 1 of the SEPP being satisfied.

- **Noise Concerns**

*The submissions raised concerns that the adjustments to the plans may result in ongoing noise concerns.*

Comment:

The proposal as amended includes internal configuration to the approved building footprint. It is considered these changes will not result in any unacceptable noise impacts.

- **Water Problem**

*The submissions raised concerns that there is a water problem at the base of the project.*

Comment:

It is noted that the site is currently under construction. If there are any concerns regarding the construction of the development, the Certifier should be contacted to raise any concerns surrounding the build. Notwithstanding, the original Development Consent includes appropriate conditions for Stormwater Disposal that are to be complied with.

- **Condition 28A (Access and Facilities for Persons with Disabilities)**

*The submissions raised concerns with Condition 28A and how access to the storage areas complies with these requirements in the condition.*

Comment:

As part of this current application an Access Report (prepared by Cheung Access Pty Ltd Trading As Inclusive Places dated 25 June 2024) has been submitted. As such as part of the recommended conditions, Condition 28A that was added under Mod2022/0471 will be modified

to be updated to reflect the Access Report submitted with this application. The Access Report concludes, "On the basis of our assessment, we confirm that the S4.56 plans for the Seniors Housing development at 1955 Pittwater Road Bayview meets the Performance Requirements of the Disability (Access to Premises-Buildings) Standards 2010 and Part D3 and E3.6 of the Building Code of Australia (BCA) (2019 Amendment 1) through the deemed-to-satisfy provisions." Therefore, Council is satisfied that the modification plans satisfy the requirements for Persons with a Disability.

- **Condition 28C (Amendments to the approved plans)**

*The submissions raised concerns that it is from the submitted design information if the development complies with the requirements of Condition 28C.*

Comment:

Condition 28C was added under Mod2022/0471 and is retained, and it is noted that this condition is to be complied with Prior to the Issuance of a Construction Certificate. As such, this contained remains, and is required to be complied with prior to the Issuance of a Construction Certificate.

- **Condition 72 (Plant Noise)**

*The submissions raised concerns that it is unclear from the submitted design information if the development complies with the requirements of Condition 72. Please clarify and provide more detail on the location of the equipment and design steps to ensure compliance. Has an appropriate acoustics study been completed? This is particularly relevant in that part of the proposed design modifications call for the removal of a storage/equipment plant area. How and where has the associated plant equipment been relocated/housed?*

Comment:

Condition 72 was added under Mod2022/0471 is to be retained. It is noted that the condition relates to any plant equipment, and this condition was added to ensure that no unacceptable acoustic impacts occur as a result of the passenger lift, or air conditioning units. Condition 72 is an on-going condition and as such the applicant will be required to demonstrate to the Certifier that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997. It is noted that the deletion of the plant room in Unit 1 was undertaken as there was no longer a requirement for a plant room on this level.

- **Condition 74 (Use of "Lower Ground Floor storage areas")**

*The submissions raised concerns that the current modification would appear to be in violation of this determination and the original L&E court ruling that the building is restricted to a 2-storey front facing development and 1-storey rear facing development and associated GFA restrictions.*

Comment:

Condition 74 is recommended to be modified to delete the reference to Unit 1 as there is no longer a storage area for this unit. There are no changes to the external appearance of the development under this application. The GFA has been discussed under the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* of this report as outlined above. As such, the variation to the FSR requirements is acceptable, as the proposal will not result in any unacceptable amenity, or environmental impact as the

modification works are located within the approved building footprint.

- **Condition 75 (Roof top screening & AC Units)**

*The submissions raised concerns that the supplied design drawings indicate that this restriction has not been implemented or incorrectly interpreted. Please clarify.*

Comment:

Condition 75 was added under Mod2022/0471, and as such this existing on-going condition is retained and will require compliance by the applicant for the life of the development.

- **Substantially the Same Test**

*The submissions raised concerns surrounding Council's position regarding the DA modifications compliance to the Moto test. It would appear that the requested modification does not meet this test in terms of the concerns primarily stated.*

Comment:

Council has considered the proposed modification works against *Environmental Planning and Assessment Act 1979 - Section 4.56* contained within this report. As such, it is considered that the proposed development is consistent with the relevant legal tests, and overall the proposal as modified is substantially the same as the originally approved development.

- **Incremental Approvals**

*The submissions raised concerns surrounding Council's review on the incremental DA approvals granted to date and previous submissions made. These, in our opinion, imply a desire to affectively expand the approved development to include a habitable 3rd floor. Please note our previous submission to the council in the formulation of the 26 September determination which expressly restricted the storage floor from habitable use. In particular our concerns expressed at that time; that the last DA sort an increase in the storage floor height to habitable levels and that this would potentially lead to subsequent requests such as this latest DA Modification. It would also appear that if the conclusions above are accepted then further DA modifications could be sort to incrementally expand habitable use of the remaining storage areas.*

Comment:

Each application is assessed when lodged with Council, and the previous modification applications were considered and assessed accordingly. Any future applications will be assessed independently with consideration against the relevant environmental planning instruments.

- **Plans are Inconsistent with Construction**

*The submissions raised concerns surrounding the plans are inconsistent with the construction on site.*

Comment:

This is a separate matter, to be pursued with the Certifier.

Concluding Comments:

In summary, the concerns raised have been addressed and do not warrant the refusal of the proposed

modification application.

## **REFERRALS**

No referrals were sent in relation to this application

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

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

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

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

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

### **SEPP (Sustainable Buildings) 2022**

A BASIX certificate has been submitted with the application (see Certificate No.991214M\_07 dated 10 May 2024).

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

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

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for in-fill self-care housing.

## **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 proposal as modified is consistent with (a) of the Policy, as the proposal as modified will provide an increase supply of accommodation to meet the needs of seniors or people with a disability. The proposal as modified is consistent with (b) as it will utilise the existing infrastructure including sewer, water, electricity, and telecommunication services. The Development Application DA2019/0154 (subject of this modification) was approved through the NSW Land and Environment Court. The proposed changes subject of this modification represent

internal changes to the approved building footprint, and as such is considered to be a suitable design as detailed in this report.

## Chapter 2 – Key Concepts

Comment: The proposal satisfies this element of the SEPP HSPD in that the development is for purpose built self-contained dwellings that are for self-care accommodation of seniors or persons with a disability.

## 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. A condition to this effect already exists on the approval. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
<b>PART 2 - Site Related Requirements</b>			
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 as modified will continue to obtain satisfactory access to shops, banks and other retail and commercial services, community services, recreation facilities, and general medical practitioners.	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 400 metres away.	The proposal as modified will continue to access public transport services that are no more than 400 metres away.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	N/A - not located on bush fire prone land.	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	The availability of reticulated water and sewerage infrastructure is maintained as per the requirements of the Development Consent.	Yes
29	Consideration must be given to whether the	Development Application DA2019/0154 (subject of this modification) was	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	<p>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>approved through the NSW Land and Environment Court. The proposed changes subject of this modification represent a relatively modest internal changes to the approved building footprint and the amended scheme is considered to maintain compliance with this requirement.</p>	
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	A detailed Site Analysis Plan was prepared with Development Application DA2019/0154 (subject of this modification). The works that are the subject of this application are wholly internal and do not alter the external outcome of the approved development which is under construction.	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><b>Complies</b> Development Application DA2019/0154 (subject of this modification) was approved through the NSW Land and Environment Court.</p> <p>The proposed changes subject of this modification represent a relatively modest change to the internal configuration, and as such are considered to be compliant with the context of the site.</p> <p>The non-compliances with the Pittwater LEP and P21 DCP have been addressed in this report.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise the impact of new development on neighbourhood character</li> <li>-Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.</li> </ul>	<p><b>Complies</b> The proposed changes will not altered any external aspects of the approved development. As such, there are no external changes to the character, physical, or visual appearance.</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise impacts on the existing streetscape and enhance its desirable characteristics</li> <li>-Minimise dominance of driveways and car park entries in streetscape.</li> </ul>	<p><b>Complies</b> There are no changes to the development as viewed from the existing streetscape. There are no changes to the driveway or car park entries.</p>
4. Impacts on neighbours	<p>The proposal is generally in accordance with the requirements of this section.</p>	<p><b>Complies</b> The proposed modification works are wholly internal and as such will not result in any unacceptable impacts to neighbours. This has been addressed throughout this report.</p>
5. Internal site amenity	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Provide safe and distinct pedestrian routes to all dwellings and communal facilities.</li> </ul>	<p><b>Complies</b> The site layout provides appropriate and safe access to each unit.</p>



### 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.	There are no external changes to the approved development under this application, and as such there are no changes to the character of the development.	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that are identified in a local environmental plan.	The proposal will not result in any unacceptable impacts to heritage items.	Yes
	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.	There proposed changes are wholly internal, and as such there are no changes to the approved setbacks, building form and siting, building height or boundary walls.	Yes

Control	Requirement	Proposed	Compliance
	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,	There are no changes to the front building setback.	Yes
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	There are no changes to the approved planting under this application.	Yes
	f. retain , wherever reasonable, major existing trees, and	There are no changes to any major existing trees under this application.	Yes
	g. be designed so that no building is constructed in a riparian zone.	The proposal is not located within a riparian zone.	Yes
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 landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	The proposed works include internal changes, and as such it is not considered the changes will result in any unacceptable visual or acoustic privacy impacts.	Yes
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,	There are no changes to the approved solar access under this application, as the works are isolated to internal changes.	Yes

Control	Requirement	Proposed	Compliance
	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.		
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	There are no changes to the approved stormwater management under this application.	Yes
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins 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	The proposal will allow for observation of public areas, driveways and streets.	Yes

Control	Requirement	Proposed	Compliance
	need to open the front door.		
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.	There are no changes to the approved pedestrian access under this application.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	There are no changes to the approved waste management arrangements.	Yes

#### Part 4 - Development standards to be complied with

##### 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	1,296.5sqm	Yes
Site frontage	20 metres	32.6sqm	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	Unaltered - Approved as 9.3m under Mod2022/0471	N/A
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	There are no changes to the approved storeys under this application.	N/A
	A building located in the rear 25% of the site must not exceed 1 storey in height	There are no changes to the approved building footprint under this application.	N/A

Control	Required	Proposed	Compliance
	(development within 15.51 metres of the rear boundary).		

### 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.	The whole of the site adjoins a public road and wheelchair access via a continuous accessible path of travel (incorporating lifts) is provided to all dwellings, as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
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	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes

Control	Required	Proposed	Compliance
	location adjacent to the street entry.		
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.	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Complies as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Complies as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Bedroom	At least one bedroom within each welling must have: (a) An area sufficient to accommodate a 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.	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Bathroom	The bathroom is to comply with the requirements described	Capable of compliance as confirmed by the Access Report (dated 25 June 2024	Yes

Control	Required	Proposed	Compliance
	in Clause 9 of Schedule 3.	prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Complies as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	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.	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Complies as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Laundry	The laundry must comply with the	Capable of compliance as confirmed by the Access Report (dated 25 June 2024	Yes

Control	Required	Proposed	Compliance
	requirements of Clause 19 of Schedule 3.	prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Capable of compliance as confirmed by the Access Report (dated 25 June 2024 prepared by by Cheung Access Pty Ltd T/A Inclusive Places).	Yes
Garbage	A garbage storage area must be provided in an accessible location.	A communal bin room is located on the car park level consistent with the original approval.	Yes

### 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)	Unaltered - Approved as 9.3m under Mod2022/0471	N/A
Density and scale	0.5:1 (648.25sqm)	0.544:1 or 705.9sqm (additional 64.1sqm)	<p><b>No</b></p> <p>The proposal presents a variation to the FSR as a result of the conversion of the Unit 1 storage to a bedroom and ensuite and the conversion of the plant area in Unit 1 to a bathroom and laundry. Furthermore, the conversion of the void to a laundry in Unit 4 increases the FSR.</p> <p>It is considered that as the works are all internal there is no unacceptable environmental or amenity impact as a</p>



Control	Required	Proposed	Compliance
			result of the additional floor space. It is noted that Unit 1 will no longer obtain any storage area, however it is considered future residents can optimise storage within the confines of Unit 1.
Landscaped area	30% of the site area is to be landscaped	Unaltered - Approved as 45.5% under Mod2022/0471	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	Unaltered - Approved as 34% under Mod2022/0471	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	Unaltered - The location of the living room windows and private open space (in particular the north east facing balconies) would remain consistent with the original approval.	Yes
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3	Unaltered - The proposal will not alter the previously approved private open space.	Yes

Control	Required	Proposed	Compliance
	metres long and is accessible from a living area located on the ground floor, and  (ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area		
Parking	0.5 car spaces for each bedroom (12 bedrooms proposed – 6 carparking spaces required)	Unaltered - 9 spaces provided	Yes
Visitor parking	None required if less than 8 dwellings	Unaltered - 1 visitor space provided	Yes

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

### **Chapter 2 – Coastal Management**

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

#### **Division 1 Coastal Wetlands and littoral rainforest area**

##### **2.8 Development on land in proximity to coastal wetlands or littoral rainforest**

- 1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
  - a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
  - b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Comment:

The proposal as modified is located in land identified as "proximity area for coastal wetlands". The proposed modified development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

### **Division 3 Coastal environment area**

#### **2.10 Development on land within the coastal environment area**

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
  - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
  - b) coastal environmental values and natural coastal processes,
  - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
  - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
  - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
  - f) Aboriginal cultural heritage, practices and places,
  - g) the use of the surf zone.

#### Comment:

The subject site is located within land identified as "coastal environment area". The proposed modified development is not likely to cause adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
  - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
  - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

#### Comment:

The proposed development has been designed, sited, and managed to avoid an adverse impact to items listed under Clause 2.10(1)(a-g) inclusive.

### **Division 4 Coastal use area**

#### **2.11 Development on land within the coastal use area**

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
  - a) has considered whether the proposed development is likely to cause an adverse impact on the following:

- i) existing, safe access to and along the foreshore, beach, headland or rock
  - ii) platform for members of the public, including persons with a disability,
  - iii) overshadowing, wind funnelling and the loss of views from public places to
  - iv) foreshores,
  - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
- b) is satisfied that:
  - i) the development is designed, sited and will be managed to avoid an
  - ii) adverse impact referred to in paragraph (a), or
  - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The subject site is located within land identified as "coastal use area". The proposed modified development is not likely to cause an adverse impact to items listed under Clause 2.11(1)(a)(i-v) inclusive. The proposal has been designed, sited, and managed to avoid any adverse impacts as detailed under Clause 2.11(1)(a)(i-v) inclusive.

## **Division 5 General**

### **2.12 Development in coastal zone generally—development not to increase risk of coastal hazards**

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed modified development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

The proposed development is not likely to cause an increased risk of coastal hazards on the land or other land.

### **2.13 Development in coastal zone generally—coastal management programs to be considered**

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

There is no certified coastal management program applicable to the land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

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

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is

contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## **Pittwater Local Environmental Plan 2014**

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

### Principal Development Standards

<b>Development Standard</b>	<b>Requirement</b>	<b>Approved</b>	<b>Proposed</b>	<b>% Variation</b>	<b>Complies</b>
Height of Buildings:	8.5m	9.1m (Roof RL 19.142) 9.3m (Lift and servicing equipment RL 19.973)	unaltered	-	N/A

### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	N/A
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

### Detailed Assessment

## **Pittwater 21 Development Control Plan**

### Built Form Controls

<b>Built Form Control</b>	<b>Requirement</b>	<b>Approved</b>	<b>Proposed</b>	<b>Complies</b>
Front building line	10m	12m	unaltered	N/A
Rear building line	3m (Where wall height is less than 3m) (Based on wall height above 3m)	Carpark: 4.8m - 5.5m Lower ground: 4.8m - 5.5m GF Terrace: 5.2m -	unaltered	N/A

		6m GF: 8.8m - 10.4m FF: 8.8m-10.2m		
Side building line	NW - 3m (Where wall height is less than 3m) 4m - 4.4m (Based on wall height above 3m)	1.5m (Lower floor) 2.5m (Carpark) 3m (GF & FF)	unaltered	N/A
	SE - 3m (Where wall height is less than 3m) 3.7m - 4.2m (Based on wall height above 3m)	1.6m (Lower floor terrace) 3m (Lower floor, GF, FF)	unaltered	N/A
Building envelope	3.5m (NW)	Within envelope	unaltered	N/A
	3.5m (SE)	Outside envelope	unaltered	N/A
Landscaped area	50% (648.25sqm)*	45.5% 590sqm* 51.5% (with variation)	unaltered	N/A

*\*Note: SEPP (Housing for Seniors or People with a Disability) 2004 requires 30% Landscaped Area, and 15% Deep Soil Zone (inclusive)*

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.4 Church Point and Bayview Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	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
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.14 Development in the Vicinity of Wetlands	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	No	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D4.1 Character as viewed from a public place	Yes	Yes
D4.2 Scenic protection - General	Yes	Yes
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	N/A	N/A
D4.6 Side and rear building line	N/A	N/A
D4.8 Building envelope	N/A	N/A
D4.9 Landscaped Area - General	N/A	N/A
D4.11 Fences - General	N/A	N/A
D4.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D4.14 Scenic Protection Category One Areas	Yes	Yes

#### Detailed Assessment

#### **C1.15 Storage Facilities**

##### Description of non-compliance

Clause C1.15 Storage Facilities of Pittwater 21 Development Control Plan stipulates the following:  
*A lockable storage area of minimum 8 cubic metres per dwelling shall be provided. This may form part of a carport or garage.*

The proposed modification works seeks to convert the Unit 1 storage area to a bedroom, wir, and

ensuite. As such, Unit 1 will not longer have a dedicated storage area, however it has access to generous walk-in robes and a service area which facilitates internal storage. It is noted, that the remaining Units, being Unit 2, Unit 3, and Unit 4 retain the nominated storage areas.

It is considered that Unit 1 will be able to achieve within the Unit, and as such the conversion of the storage area to an additional bedroom is considered acceptable.

#### Merit consideration

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

- ***Provision of convenient storage with the development. (S)***

#### Comment:

It is considered that Unit 1 will facilitate appropriate storage within Unit 1, and as such the conversion of the storage area to a bedroom is acceptable. Two of the bedrooms within Unit 1 contain WIR that will assist with storage, as well as ample spaces within the unit for storage as required.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

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

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental



Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

## **PLANNING CONCLUSION**

This proposal, for modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development has been referred to the Development Determination Panel (DDP) due to five (5) objections received.

The concerns raised in the objections have been addressed and considered in the submissions section of this report.

The critical assessment issues include the increased FSR under Clause 50 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD))*, however it is noted that Clause 50 of the SEPP HSPD are standards that cannot be used to refuse development consent for self-contained dwellings

Overall, the development is a high quality design that performs well against the relevant controls and will not result in unreasonable impacts on adjoining or nearby properties, or the natural environment. The proposal has therefore been recommended for approval.

## **REASON FOR DETERMINATION**

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## **RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2024/0252 for Modification of Development Consent DA2019/0154 granted for Demolition works and construction of a seniors housing development on land at Lot 1 DP 373531, 1955 Pittwater Road, BAYVIEW, Lot 1 DP 1047205, 1955 Pittwater Road, BAYVIEW, subject to the conditions printed below:

## **Modification Summary**

The development consent is modified as follows:

# **MODIFICATION SUMMARY TABLE**

<b>Application Number</b>	<b>Determination Date</b>	<b>Modification description</b>
PAN-435217 Mod2024/0252	The date of this notice of determination	Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development  Add Condition 1D - Modification of Consent - Approved Plans and supporting documentation Modify Condition 28A (Access and Facilities for Persons with Disabilities) Modify Condition 74 (Use of "Lower Ground Floor storage areas")
PAN-254758 MOD2022/0471	13 September 2023	Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development  Add Condition No.1C - Modification of Consent - Approved Plans and supporting Documentation Modify Condition 2 (Compliance with Other Department, Authority or Service Requirements) Modify Condition 46 (Removal of trees within the road reserve) Modify Condition 49 (Tree and vegetation protection) Modify Condition 56 (Landscape Works) Modify Condition 57 (Condition of Retained Vegetation) Add Condition 28A (Access and Facilities for Persons with Disabilities) Add Condition 28B (Submission Roads Act Application for Civil Works in the Public Road (Retaining Wall Works)) Add Condition 28C (Amendments to the approved plans) Add Condition 51A (Impacts to Protected Native Wildlife) Add Condition 51B (Wildlife Protection) Add Condition 57A (No Weeds Imported On To The Site) Add Condition 57B (Priority Weed Removal and Management) Add Condition 71 (Replacement of Canopy Trees) Add Condition 72 (Plant Noise) Add Condition 73 (Use of the Roof Terrace) Add Condition 74 (Use of "Lower Ground Floor storage areas") Add Condition 28D (Services and Fire Hydrant Enclosure) Add Condition 75 (Roof top screening & AC Units)
PAN-106400 Mod2021/0343	27 July 2021	Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development

		Add Condition No. 1B - Modification of Consent - Approved Plans and supporting Documentation
PAN-78870 Mod2021/0101	12 May 2021	Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development  Add Condition No. 1A - Modification of Consent - Approved Plans and supporting Documentation

### **Modified conditions**

#### **A. Add Condition 1D - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

<b>Approved Plans</b>				
<b>Plan Number</b>	<b>Revision Number</b>	<b>Plan Title</b>	<b>Drawn By</b>	<b>Date of Plan</b>
DA.101	G	Site Plan	Aplus Design Group	19 April 2024
DA.203	H	Lower Ground Floor Plan	Aplus Design Group	24 June 2024
DA.204	D	Ground Floor Plan	Aplus Design Group	19 April 2024
DA.205	E	First Floor Plan	Aplus Design Group	24 June 2024
DA.301	F	Section AA	Aplus Design Group	19 April 2024
DA.302	F	Section BB	Aplus Design Group	19 April 2024
DA.303	B	Section CC	Aplus Design Group	19 April 2024
DA.405	B	Unit 1 Internal Elevation/Sections	Aplus Design Group	24 June 2024

<b>Approved Reports and Documentation</b>			
<b>Document Title</b>	<b>Version Number</b>	<b>Prepared By</b>	<b>Date of Document</b>
Access Report	P000737	Cheung Access Pty Ltd Trading As Inclusive Places	25 June 2024
BASIX Certificate (No.991214M_07)	-	Efficient Living Pty Ltd	10 May 2024
Geotechnical Report	2023-223	Crozier Geotechnical Consultants	23 April 2024
NatHERS Certificate (No.0005395090)	F	Efficient Living Pty Ltd	10 May 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Modify Condition 28A (Access and Facilities for Persons with Disabilities), to read as follows:**

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the recommendations contained in the Access Report prepared by Cheung Access Pty Ltd Trading As Inclusive Places, Reference No.P000737, dated 25 June 2024 are to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifier prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

**C. Modify Condition 74 (Use of "Lower Ground Floor storage areas"), to read as follows:**

The "lower ground floor level" unit storage areas, labelled UNIT 2 ST"; "UNIT 3 ST"; "UNIT 4 ST"; shall not to be used for habitable purposes and shall not to contain any cooking, bathroom/toilet or laundry facilities. The storage areas despite notation on the plan shall have not external openings or ventilation louvers.

Reason: To ensure that the storage areas are used for their intended purpose.