

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2021/0853
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<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 27 DP 9151, 3 Central Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0008 for Demolition works and construction of a seniors housing development
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Roger Ashley Carrothers Sandra Elizabeth Carrothers
<b>Applicant:</b>	Avalon Central Pty Ltd

<b>Application Lodged:</b>	05/11/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	24/11/2021 to 08/12/2021
<b>Advertised:</b>	24/11/2021
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks approval to modify the deferred commencement consent (DA2020/0008) for a Seniors Housing development. In detail the modifications include:

#### Lower Ground Floor RL8.40 / Basement RL8.350

- Modifications to the end of the basement driveway to comply with conditions in the original development consent.
- Adjust driveway ramp width to comply with DA condition requiring minimum width of 5.5m.
- Provision of enclosing door from parking area to lift lobby.
  
- Remove ramps from lift lobby to apartments.

- Provision of direct service door from waste bins enclosure to footpath.
- Provision of covered/weather protected entry gate and mailboxes.
- Lower floor slab of ground floor and parking level reduced from RL 8.610 to RL 8.400 / 8.350, adjust typical floor levels.  
(Note: The proposal maintains the approved building height (RL 17.70 roof, RL 18.050 top of parapet, RL 18.950 top of lift overrun).

### **Ground Level RL11.60**

- Apartment No. 3: Adjustment of living areas to incorporate external space/ entry that was previously occupied by access ramp.
- Apartment No. 4 & 6: Rationalise external plant room and incorporate into the apartment's entry courtyard. Extend entry foyer with study desk space and extend living area glazing to provide better circulation space.
- Apartment No. 5: Re-plan bedroom 1, study and laundry for better circulation, privacy and amenity.

### **Level 01 RL14.65**

- Apartment No. 7: Re-plan bedroom 1, study and laundry for better circulation, privacy and amenity.

### **External**

- Removal of two (2) street trees.
- Adjust elevations as a result of the modifications detailed above.

The proposed will result in a 50sqm increase in GFA addition from 797m<sup>2</sup> (FSR 0.563:1) to 847 m<sup>2</sup> (FSR 0.598:1).

Note: The modifications do not seek to change any of the conditions imposed or modified by the NLPP when the original development application was determined.

### **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

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 27 DP 9151 , 3 Central Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the southern side of Central Road, Avalon Beach.</p> <p>The site is irregular in shape with frontages of 23.25m along Central Road, 70.44m along Patterson Lane. The site has a surveyed area of 1,416m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates two-storey residential flat building in a landscaped setting.</p> <p>The site slopes approximately 7m from north to south and contains a variety of small, medium and large vegetation types.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by seniors housing, residential flat buildings, and detached dwelling houses. To the south is unformed road Elba Lane and Dunbar Park.</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:

### **PLM2019/0147**

Pre-lodgement Meeting PLM2019/0147 was held on 6 August 2019 to discuss construction of a seniors living development.

### **DA2020/0008**

Deferred commencement approval was granted for Development Application No. DA2020/0008 on 9 December 2020 for demolition work and construction of a seniors housing development comprising seven (7) self-contained dwellings and basement car park for eight (8) vehicles. The Deferred commencement condition requires a Voluntary Planning Agreement (VPA) for dedication of land adjoining Patterson Lane to facilitate the construction of an access path connecting Central Road with Dunbar Park.

It is noted that the LPP recommended changes to conditions relating to the VPA (DC), footpath construction along the eastern boundary (part on land dedicated to Council) (43), footpath completion (63), and pedestrian signage installation phasing (70). In addition, the Panel imposed a condition (14) requiring:

*The applicant to amend the approved plans to reflect the six sketch plans dated 9/12/20 attached to the Memo dated 9 December 2020 from Renee Ezzy, Principal Planner, to Northern Beaches Local Planning Panel. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.*

On the 15 September 2021, the applicant submitted detailed to satisfy the deferred commencement condition. At the time of writing this report the Draft Planning Agreement VPA2021/0003 was undetermined.

### History of subject Modification

On 12 January 2022, the applicant was advised that issues had been raised from the following Council Departments; Transport, Development Engineer, Landscape and Urban Design.

On 21 January 2022, the applicant submitted amended plans and additional information to address the issues raised in the referrals.

**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 DA2020/0008, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
<p>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:</p>	
<p>(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 modified (if at all), and</p>	<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 DA2020/0008 for the following reasons:</p> <p>The modifications primarily respond to compliance with conditions of consent relating to the driveway, basement, footpath and accessibility. There are some minor internal changes to three (3) apartments which will improve the amenity of the units without compromising the existing amenity of neighbouring properties. While the modifications result in an increase in the gross floor area (GFA) FSR it is not a development standard and as there is no change to the building envelope, the height, bulk or scale of the approved building. There are some minor changes to the elevations which will not result in any adverse visual impacts on the streetscape or the architectural quality of the proposal. Two street trees are required to be removed to facilitate the</p>

Section 4.55 (2) - Other Modifications	Comments
	<p>construction of the required footpath. Subject to suitable replacement planting there are no objections to the removal of the trees.</p> <p>Consideration of whether a development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted, Justice Bignold established the following test in the <i>Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 289</i> where His Honours states:</p> <p><i>"[54] The relevant satisfaction required by s96(2)(a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.</i></p> <p><i>[55] The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is "essentially or materially" the same as the (currently) approved development.</i></p> <p><i>[56] The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."</i></p> <p>Reviewing the above comments and the court judgement by Justice Bignold established in the <i>Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 289</i> it is concurred that the proposed modification is consistent with the (original) consent and can be considered under Section 4.55 of the Act.</p>
<p>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the</p>	<p>Development Application DA2020/0008 did not require concurrence from the relevant Minister, public authority or approval body.</p>

Section 4.55 (2) - Other Modifications	Comments
<p>modification of that consent, and</p> <p>(c) 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>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>
<p>(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.</p>	<p>No submissions were received in relation to this application.</p>

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 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
<p>Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument</p>	<p>See discussion on “Environmental Planning Instruments” in this report.</p>
<p>Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument</p>	<p>Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.</p>
<p>Section 4.15 (1) (a)(iii) – Provisions of any development control plan</p>	<p>Pittwater 21 Development Control Plan applies to this proposal.</p>
<p>Section 4.15 (1) (a)(iiia) –</p>	<p>None applicable.</p>

Section 4.15 'Matters for Consideration'	Comments
Provisions of any planning agreement	
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&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation, 2000 allow Council to request additional information. Additional information was requested in relation to issues raise by Council's Transport and Development Engineers, Landscape Officer and Urban Designer.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This Clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;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 in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>



Section 4.15 'Matters for Consideration'	Comments
	(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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	No submissions have been received.
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 development application has been publicly exhibited from 24/11/2021 to 08/12/2021 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 of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<b>SUPPORTED</b>  The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.  Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.
Landscape Officer	<b>SUPPORTED</b>  <i>updated comments:</i> The required footpath construction under condition 42 of the deferred commencement consent DA2020/0008 impacts upon two existing

Internal Referral Body	Comments
	<p>trees within the road reserve verge, identified in the Arboricultural Impact Assessment as tree numbers 12 - <i>Corymbia gummifera</i> (Red Bloodwood) and 13 - <i>Eucalyptus acmenoides</i> (White Mahogany), such that removal is required. Two replacement street trees shall be included to satisfy DCP control C1.24 Public Road Reserve - Landscaping and Infrastructure, and conditions of consent shall be imposed.</p> <p>Under DA2020/0008 conditions, existing trees 12 and 13 were included for retention, and as such conditions under this modification application shall remove reference to the retention and protection of both existing trees that shall now be approved for removal. Relevant landscape DA2020/0008 conditions to be modified include: 25, 32, 36, 42, and 46.</p> <p><i>previous comments:</i> The application is for modification to the deferred commencement consent DA2020/0008 granted for the demolition of the existing dwelling and construction of seven units for Seniors Living.</p> <p>The proposed modifications include: remove ramps from lift lobby to apartments; lower floor slab of ground floor and parking level, adjust typical floor levels, and maintain approved building height; adjust end of basement driveway to comply with DA condition; adjust driveway ramp width to comply with DA condition; provision of enclosing door from parking area to lift lobby; improvements to apartment's amenities; minor GFA addition; provision of direct service door from waste bins enclosure to footpath; and provision of covered/weather protected entry gate and mailboxes.</p> <p>The proposal to provide a footpath within the road verge from the waste bin enclosure is in proximity to the existing street tree number 17 - <i>Eucalyptus piperita</i> (Sydney Peppermint). No information is provided on potential impact from construction of the footpath to the existing tree. Assessment by the applicant is required and an arboricultural impact review shall be submitted detailing the level of impact to the existing tree and the type of construction required to ensure an acceptable and manageable tolerance.</p> <p>No information is provided on the width of the proposed footpath and it is suggested that a footpath no wider than 1.5m should be nominated, and an alignment should be submitted with the arboricultural impact review.</p>
NECC (Development Engineering)	<p><b>SUPPORTED</b></p> <p><i>Updated comments</i></p> <p>The revised plans have been assessed and the driveway crossing grades and internal grade is satisfactory. The stormwater management plans have not been updated to suit the new levels however it is considered that the design will not be compromised by</p>

Internal Referral Body	Comments
	<p>the revised driveway and basement design. It is noted that the drainage pipe exiting the detention tank is shown within the proposed road dedication and must be relocated to suit. The condition for OSD has been amended to suit.</p> <p>Development Engineering support the proposed modifications subject to the following.</p> <p>Condition 1a) of consent DA2020/0008 amended to reflect the updated Geotechnical Report date of 27 October 2021.</p> <p>Condition 18 of consent DA2020/0008 amended to the following.</p> <p><b>On-site Stormwater Detention Details</b> The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management Policy and generally in accordance with the concept drainage plans prepared by Sparks + Partners, drawing number 197279 DA1.01, DA4.01, DA4.02, DA4.10, DA4.11 and DA4.12 Revision 3, dated 8/09/20. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.</p> <p>The drainage plans must address the following:</p> <ol style="list-style-type: none"> <li>1. The junction pits and stormwater pipeline exiting the on-site stormwater detention (OSD) tank are to be located within the proposed new boundary to Patterson Lane, to ensure no encroachment in the public road reserve.</li> </ol> <p>Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.</p> <p>Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.</p> <p><i>Original comments</i></p> <p>The proposed modification to alter the approved level of the basement from RL 8.61m AHD to 8.35m AHD alters the driveway gradients between the kerb invert and the basement which may cause vehicles to scrape when entering and exiting. This is compounded by the required widening of the crossing on the high side of the lane from 4.5 metres to the required 5.5 metres width. In this regard, the applicant must provide cross sections on either side of the crossing and the centerline from the existing kerb invert to the proposed basement with</p>

Internal Referral Body	Comments
	<p>vehicle profiles in accordance with the B85 vehicle in AS/NZS 2890.1:2004. The proposed 1.5 m wide footpath must have a minimum cross fall of 2% and a maximum cross fall of 5% from the proposed back of layback up to the proposed boundary. A maximum 1 in 20 (5%) grade down to the basement for 6 metres from the boundary is to be provided in accordance with AS/NZS 2890.1;2004.</p> <p>The approved stormwater management plans propose the OSD tank under the driveway and as such amended plans reflecting any changes to the levels must be provided for the proposal..</p> <p>The updated Geotechnical report addresses the relevant DCP controls.</p> <p>Development Engineering cannot support the proposal due to insufficient information to address vehicular access and stormwater management in accordance with Clause B5 and B6 of the DCP.</p>
<p>Strategic and Place Planning (Urban Design)</p>	<p><b>NOT SUPPORTED</b></p> <p>The Floor Space Ratio area is incorrectly calculated. The applicant is requested to resubmit the area calculations.</p> <p>Note: There are no objections in principle to the increase in the GFA.</p> <p><u>Planners Comments:</u></p> <p>The applicant notes that:</p> <p><i>The GFA and FSR schedule and calculation diagrams has been amended to reflect the additional area to lower and upper ground floor lobby. The amendments/ recalculation has added additional 50m<sup>2</sup> to the total proposed GFA totaling to 855m<sup>2</sup> or an FSR of 0.59:1. The proposed minor adjustments to the Gross Floor Area does not change the approved building footprint, and the overall height and massing.</i></p> <p><i>The proposed minor modification has improved the accessibility and amenity of the development for future end users.</i></p> <p><i>In addition, it is noted that the GFA calculation is consistent with that adopted in the original DA.</i></p> <p><u>Response:</u> The GFA calculation of both the original development, which was granted deferred commencement consent, and the subject modification excluded the corridors on all levels as the corridors are open to the elements to the Patterson Lane frontage. For the reasons detailed throughout this report the applicants justification is supported as there is no increase in the building footprint or unreasonable impacts on neighbouring amenity.</p>
<p>Traffic Engineer</p>	<p><b>SUPPORTED</b></p>

Internal Referral Body	Comments
	<p>Final referral comments - 15/2/22</p> <p>The amended plans have demonstrated that the driveway and footpath details are acceptable. There are no traffic engineering concerns with the modification and no additional conditions to add.</p> <p>Original referral comments - 6/1/22</p> <p>The referral comments made by Council's Development Engineer with regard to the need for further information regarding driveway gradients and footpath cross falls to demonstrate compliance with AS/NZS 2890.1:2004 are supported. At this stage there are no other traffic engineering concerns regarding the modification application. Once the requested information has been received further review of the modification can take place</p>
Waste Officer	<p><b>Supported</b></p> <p>Proposal is approved with conditions.</p>

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

### ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

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

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

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

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

#### SEPP 55 - Remediation of Land

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

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

### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1056875M\_03 dated 11 October 2021).

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

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	50	45

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

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

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

### **Chapter 1 – Preliminary**

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

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

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

**Comment:** The proposed development, as amended continues to be 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.

When considered against the aim of achieving a good design, the development must also be considered in context with the provisions of SEPP (HSPD). The aim of the policy is to encourage seniors housing achieving a good design outcome which respects the character of the locality it is located in and seeks to minimise the impacts on amenity and the character of the area. Despite the minor increase in GFA (FSR) there is no change to the building envelope (height, footprint or setbacks). The minor changes to the elevations are minimal and the proposed built form continues to minimise impacts on the character as detailed within this report and is therefore considered consistent with the aims of this policy.

### **Chapter 2 – Key Concepts**

**Comment:** The proposed development is consistent with the key concepts contained within SEPP

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

### **Chapter 3 – Development for seniors housing**

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

<b>Development Criteria</b>			
<b>Clause</b>	<b>Requirement</b>	<b>Approval / Proposal</b>	<b>Complies</b>
<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 supporting documentation submitted with this application identify bus services located within Central Road that provide a transport link to the services listed.  No change - The modification continues to provide a suitable link to the services listed.	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 application has adequately demonstrated that it is serviced by public transport not more than 400m from the site.  No change - the site is within 400m of public transport services.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not located on bushfire 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.	Reticulated water and sewerage infrastructure is presently available to the site. The proposed seniors housing development is capable of connecting to a reticulated water system, in accordance with the provisions of Clause 28.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i),	The approved and proposed development on balance is considered compatible with the surrounding land uses consistent with the requirements of Clause 25 (5) for the following reasons:	Yes

Development Criteria			
Clause	Requirement	Approval / Proposal	Complies
	25(5)(b)(iii), and 25(5)(b)(v):  i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development  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,  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.	i) The existing and approved uses of the land surrounding the development include residential flat buildings to the east and west, a school to the north and a public park to the south provide a compatible setting for the proposed development.  iii) The site is serviced by adequate existing services suitable for the development. The applicant has made an offer to enter into a VPA to dedicate land along the western side of Patterson Lane for the purpose of providing a public footpath to connect Central Road to Dunbar Park.  v) The proposed building design provides a well considered response to the site location and topography and is not considered to result in any unacceptable adverse impacts on surrounding land uses.	
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	A suitable site analysis has been provided.	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	Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.  Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and	<b>Built Environment</b> The existing residential development surrounding this site provides a mix of residential flat buildings, dwelling houses and a school. The proposed modified seniors housing development continues to provides a commensurate built form that will complement the streetscape. The building form continues to steps



Section	Requirements	Comment
	<p>key elements of an area that contribute to its unique character.</p>	<p>down the site reducing the overall building mass.</p> <p><b>Policy Environment</b> The Avalon Beach Locality makes the following comment:</p> <p><i>"Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport. Vehicular and pedestrian access into and through the locality is good. Pedestrian links, joining the major areas of open space (Angophora Reserve, Stapleton Park and Hitchcock Park) and along the foreshores, should be enhanced and upgraded. Similarly, cycle routes need to be provided through the locality. Carparking should be provided on site and where possible integrally designed into the building.</i></p> <p><i>Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale.."</i></p> <p>The modified development continues to support the improvement of pedestrian links and infrastructure through the voluntary dedication of land to facilitate construction of a suitable access path from Central Road to Dunbar Park. The conditions relating to the pedestrian links and the VPA are still relevant.</p> <p>Further, there is no change to the approved height which is generally below the maximum height limit with the exception of a small part of the lift overrun. The scale of the development is below the tree canopy and will benefit from new planting which will provide further screening.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <p>-Minimise the impact of new</p>	<p>Despite the minor changes to the elevations the development, as modified will continue to have a subtle and complementary impact on</p>

Section	Requirements	Comment
	development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	the neighbourhood character of this locality.  There is no change to the parking for the development is contained within a basement accessed from Patterson Lane. The parking arrangement will have no visual dominance from surrounding vantage points. The modification seeks to improve access to the basement car park in accordance with the conditions in the original consent.
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.	The proposed building design, as modified will provide a sympathetic presentation with the streetscape and to Dunbar Park providing visual surveillance to three public interfaces.  The location of parking within the basement accessed off Patterson Lane minimises the dominance of the onsite parking and satisfies these objectives.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	The modification will not result in any new impacts on neighbouring amenity. No submissions have been received following the exhibition of the application.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	The internal site layout has improved and accessibility have been well designed and are considered satisfactory in terms of this requirement. An updated accessibility report has been received and a condition requires compliance with the updated report.

### **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	a. Recognise the desirable elements of the location's current	The visual catchment for the location consists of a variety of building styles and scales.	Yes

Control	Requirement	Proposed	Compliance
streetscape	<p>character so that new buildings contribute to the quality and identity of the area.</p> <p>b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p> <p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting</p>	<p>There is no material change to the approved building form which is considered a discreet transition of building form which provides good casual surveillance and a high level of articulation and architectural merit.</p> <p>Not applicable.</p> <p>There are no changes to the approved setbacks which are compliant. The modified elevations ensure that the facades are well articulated to reduce the appearance of bulk from surrounding sites. The design presents as a two storey development from all neighbouring properties and from the street and includes generous setbacks at both the front northern boundary and the southern boundary adjoining Dunbar Park.</p> <p>There is no change to the front setback of the proposed development that provides a sympathetic setback to the adjoining neighbour at 5 Central Avenue at a minimum of 8.5m.</p> <p>The proposal is considered</p>	<p>N.A</p> <p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>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>satisfactory in relation to proposed planting.</p> <p>The subject modification seeks consent for the removal of two (2) street trees in order to facilitate the footpath construction required under condition 42 of the deferred commencement consent DA2020/0008. Council's Landscape Officer has no objections to the removal of the trees subject to replacement planting. Refer to discussion under Referral section of this report.</p> <p>The site is not within a riparian zone.</p>	<p>Yes</p> <p>N/A</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 landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	The modification will not result in any unreasonable amenity impacts on neighbouring properties.	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	The building envelope remains the same as approved, as such there are no additional shadow impacts.	Yes

Control	Requirement	Proposed	Compliance
	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.		
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	No objections have been raised by Council's Development Engineers in relation to the modified 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 need to open the front	The modified development continues to provide a high level of casual surveillance to Patterson Lane Central Road where the primary access points to the development are located.	Yes

Control	Requirement	Proposed	Compliance
	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.	The modified application improves access site planning includes a sculptural accessible throughout the site. The pedestrian paths provide appropriate access at the front of the site to the bin storage area and connecting pathways to public transport links.	Yes
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The waste storage remains to be consistent with the requirements of Council's Waste Management Guidelines. Conditions imposed in the original application are still relevant.	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	1417m <sup>2</sup>	Yes
Site frontage	20 metres	23.255m	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m (no change)	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.		
	A building located in the rear 25% of the site must not exceed 1 storey in height	The development includes only single storey elements within the rear 25% of the site adjoining Dunbar Park.	Yes

Control	Required	Proposed	Compliance
	(development within 15.51 metres of the rear boundary).	The subject modification does not seek to change this arrangement.	

### 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.	Accessible access provided.	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 in accordance with the updated Access Report. Details to be provided with Construction Certificate.	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 location adjacent to the	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes

Control	Required	Proposed	Compliance
	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.	Complies	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	
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 in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Toilet	The toilet is to comply	Capable of compliance in	Yes



Control	Required	Proposed	Compliance
	with the requirements described in Clause 9 of Schedule 3.	accordance with the updated Access Report. Details to be provided with Construction Certificate.	
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	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 in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	Yes

Control	Required	Proposed	Compliance
Garbage	A garbage storage area must be provided in an accessible location.	Capable of compliance in accordance with the updated Access Report. Details to be provided with Construction Certificate.	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	Approved	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	8m	8m (no change)	Yes
Density and scale	0.5:1	0.563:1 (797sqm)	*0.59:1 (855sqm)	No
Landscaped area	30% of the site area is to be landscaped	40.5%	40.5% (no change)	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.	38.9%	38.9% (no change)	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	Complies	Complies (no change)	Yes

Control	Required	Approved	Proposed	Compliance
	hours direct sunlight between 9am and 3pm in mid winter			
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>	Each apartment contains more than 15m <sup>2</sup> of private open space.	Complies (no change)	Yes
Parking	(15 bedrooms proposed – 8 carparking spaces required)	8 spaces provided	Complies (no change)	Yes

Control	Required	Approved	Proposed	Compliance
Visitor parking	None required if less than 8 dwellings	7 dwellings	No change	Yes

### \*Density and Scale

The density and scale requires a floor space ratio (FSR) measuring 0.5:1. The approved development resulted in an FSR of 0.563:1 (797sqm) or 5.1% variation (89.2sqm in excess of 0.5:1). The proposed modification will result in an additional 50sqm increase in GFA as a result of the changes to apartments 3,4, 5 and 6 to incorporate external space / entry that was previously occupied by an access ramp. The proposed GFA is 847sqm (0.6:1) or 20% variation. The requirements of Clause 50 of the SEPP (HSPD), including density (FSR), is not a Development Standard for the purpose of Clause 4.6. In addition a Clause 4.6 is not required under the provisions of Clause 4.55 of the EP Act and a Clause 4.6 variation is not required. The proposal is however, considered on its merits.

While there are no stated objectives provided for Clause 50 of SEPP (HSPD), the controls encapsulated in Clause 33, 34 and 35 of the SEPP seek to demonstrate the proposal's suitability and compatibility within the streetscape and impacts on neighbourhood amenity, privacy and solar access. The stated FSR of 0.5:1 for development within a low density residential environment seeks to ensure infill seniors housing development located in an established low density location reflects the density of the predominant building form of low density detached style dwelling houses. The visual catchment for this site is demonstrably not a low density character. There is no change in the approved building envelope (footprint / setbacks or height) and the density (bulk, massing and scale) of the approved development remains to be consistent with the approved development and contextually appropriate. In addition, the proposal will not result in an unreasonable impacts on neighbouring amenity. In summary, the modification continues to meet the objectives of the FSR control and R2 Low Density Residential zone. On merit, the increase in GFA is assessed as acceptable.

### SEPP (Infrastructure) 2007

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid who provided comments on the application recommending compliance with conditions. The Ausgrid conditions have already been applied to the original consent and are still relevant.

## 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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8m to the topmost floor 9.59m to the lift over-run	8m to the topmost floor 9.59m (no change)	12.8%	No

There is no change to the approved building height.

### 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	N/A
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

## Pittwater 21 Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
Front building line (Central Avenue)	6.5m	8.5m	8.5m / unaltered	Yes
Secondary street setback (Patterson Lane)	3.25m	3.25m to the face of the building	3.25m / unaltered	Yes
Rear building line	6.5m	N/A (corner lot)	N/A	N/A
Side building line	South 2.5m	6.2m	6.2m m / unaltered	Yes
	West 1m	1m	1m / unaltered	Yes
Building envelope	East 4.2m	Within envelope	Within envelope / unaltered	Yes
	West 4.5m	Outside envelope	Outside envelope / unaltered	No
Landscaped area	60% (849.6sqm)	40.5% (574sqm)	32.4% / unaltered	No

\* There is no change to the building footprint / height (built form controls). In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for

DA2020/0008, in full.

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
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	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
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 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
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	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	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	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D1.9 Side and rear building line	Yes	Yes
D1.11 Building envelope	No	Yes
D1.15 Fences - General	Yes	Yes
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

## 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 2021

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 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, 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
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

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. Mod2021/0853 for Modification of Development Consent DA2020/0008 for Demolition works and construction of a seniors housing development on land at Lot 27 DP 9151,3 Central Road, AVALON BEACH, subject to the conditions printed below:

**A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
SD1009 Rev A Site Plan	17.12.2019	COTTEEPARKER
SD2007 Rev D Floor Pan - Lower Level	30.09.2021	COTTEEPARKER
SD2008 Rev D Floor Plan - Ground Level	30.09.2021	COTTEEPARKER
SD2009 Rev D Floor Plan - Level 1	30.09.2021	COTTEEPARKER
SD2010 Rev D Roof Plan	30.09.2021	COTTEEPARKER
SD2813 Rev A Driveway Detail Plan	20/2021	COTTEEPARKER
SD2814 Rev A Driveway Details Sections	20/2021	COTTEEPARKER
SD3001 Rev D Street Elevations	30.09.2021	COTTEEPARKER
SD3002 Rev D Street Elevations	30.09.2021	COTTEEPARKER
SD3003 Rev C Elevations	30.09.2021	COTTEEPARKER
SD3100 Rev D Sections 1	30.09.2021	COTTEEPARKER
SD3101 Rev D Sections 1	30/09.2021	COTTEEPARKER

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA4.01 Rev 3 Concept Stormwater Management Plan - Lower Ground Floor	08.09.2020	Sparks and Partners
DA4.02 Rev 3 Concept Management Plan - Ground	08.09.2020	Sparks and Partners
DA4.11 Rev 3 Stormwater Management Details Sheet 1	08.09.2020	Sparks and Partners
DA4.12 Rev 3 Stormwater Management Plan Details Sheet 2	08.09.2020	Sparks and Partners



<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Geotechnical Report Ref 32781BCrptRev 1	27.10.2021	JKGeotechnicis
Fire Engineering Support Statement	13.10.2021	MCD Fire Engineering
BCA Amdt 1 Compliance Report Rev E	25.10.2021	McKenzie Group
NatHERS Certificate No 0005219480	11.10.2021	Design Matters National
Assessor Construction Summary Ref JP8c	11.10.2021	Gradwell Consulting
BASIX Certificate No. 1056875M_03	11.10.2021	Gradwell Consulting
Accessibility Report Issue A Ref 219242	21.10.2021	Accessible Building Solutions
Arborist Report Ref RTC-140120	02.09.2020	Rain Tree Consulting

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

d) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

f) The development is to be undertaken generally in accordance with the following:

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**A. Modify Condition 17 Building Code of Australia Requirements and Fire Safety Upgrade to read as follows:**

The Building Code of Australia works and fire safety measures as detailed and recommended in the Building Code of Australia Audit Report prepared by McKenzie Group, dated 25 October 2021, Report Ref No.190178(E) are to be considered as part of the assessment of the Construction Certificate.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

**B. Modify Condition 25 Pier footing design near existing trees to read as follows:**

- a) The pier footing structural layout plans for the suspended timber ramp/walkway, in proximity to existing trees identified as T8 - T11 (inclusive), T14 - T17 (inclusive), shall be developed in co-ordination with an Arborist with AQF minimum Level 5 qualifications in arboriculture.
- b) The Arborist shall review, comment, recommend design revision as required and approve the pier footing layout, to ensure the locations of piers will be manageable in terms of tree protection measures.
- c) The Arborist shall submit certification to the Certifying Authority, that the locations of the pier footings are accepted and based on suitable trunk clearances to allow for future growth.
- d) The agreed pier footing structural layout plans shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate.

**C. Modify Condition 32 Project Arborist to read as follows:**

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works including but not limited to section 1.4.2 of the updated Arboricultural Impact Assessment dated 2 September 2020:

- i) design review of pier footings for the suspended walkway in proximity to existing trees identified as T8 to T17 inclusive,
- ii) tree protection fencing for existing trees identified as T3, T10, T11, and T15 as shown within Appendix E01 and E02,
- iii) tree sensitive design for the Central Road footpath in proximity to existing trees identified as T17,
- iv) trunk protection for existing tree identified as T20 within Patterson Lane,
- v) excavation works in proximity to existing trees identified as T30 to T35 inclusive, to select location of path near T30 and select fence post footings for T31-T35, within Dunbar Park,
- vi) tree protection fencing for existing tree identified as T36 within Dunbar Park.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: tree protection

#### **D. Modify Condition 36 Tree removal within the property to read as follows:**

This consent approves the removal of the following trees within the property impacted by development (as recommended in the updated Arboricultural Impact Assessment dated 2 September 2020:

- Trees numbered 4, 4a and 18 (Cheese Tree), 6 (Bloodwood), 7 (Lillypilly), 19 (Lemon Scented Gum), 23, 26 and 28 (Bottlebrush), 24, 25, 28a and 29 (Lemon Scented Tea Tree), 37 (Swamp Mahogany), 12 *Corymbia gummifera* (Red Bloodwood) and 13 - *Eucalyptus acmenoides* (White Mahogany). Tree 12 and 13 are both located within the road reserve and the removal of the street trees is subject to replacement planting.

The following Exempt Species do not require Council consent for removal:

- Trees numbered 5, 5a, and 27.

Reason: to enable authorised building works

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

**E. Add Condition 36B Street Tree Planting to read as follows:**

Two (2) replacement street trees shall be planted in accordance with the following:

- Species and Container Size: *Tristanopsis laurina*, pre-ordered for delivery at 200 litres, and shall meet the requirements of Natspec - Specifying Trees
- Specification: caliper minimum 60mm, clear trunk approx. 1.8 metres
- Planting: trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained including a four post and top and mid rail timber tree guard and watered until established and shall be located at least 2 metres from any structures including driveways, and shall generally be centralised within the road verge.

Details shall be submitted as part of the road reserve works application under section 138 and 139 of the Roads Act, and submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To maintain environmental amenity.

**F Add Condition 76 Environmental Reports certification to read as follows:**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following reports have been completed:

- (a) Geotechnical Report Ref 32781BCrptRev 1 dated 27.10.2021 prepared by JKGeotechnicis
- (b) Fire Engineering Support Statement dated 13.10.2021 prepared by MCD Fire Engineering
- (c) BCA Amdt 1 Compliance Report Rev E dated 25.10.2021 prepared by McKenzie Group
- (d) NatHERS Certificate No 0005219480 dated 11.10.2021 prepared by Design Matters National
- (e) Assessor Construction Summary Ref JP8c dated 11.10.2021 prepared by Gradwell Consulting
- (f) BASIX Certificate No. 1056875M\_03 dated 11.10.2021 prepared by Gradwell Consulting
- (g) Accessibility Report Issue A Ref 219242 21.dated 10.2021 prepared by Accessible Building Solutions
- (h) Arborist Report Ref RTC-140120 dated 02.09.2020 prepared by Rain Tree Consulting

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To ensure compliance with standards.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Anne-Marie Young, Principal Planner**

The application is determined on //, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**