

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/1379
Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 4 DP 6555, 104 Taiyul Road NORTH NARRABEEN NSW 2101
Proposed Development:	Demolition of existing dwelling house and construction of five 5 self-contained seniors dwellings
Zoning:	R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 ("SEPP HSPD")
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jason Bernard Attfield
Applicant:	Jason Bernard Attfield
Application lodged:	28/12/2017
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	12/01/2018 to 12/02/2018
Advertised:	Not Advertised
Submissions Received:	2
Recommendation:	Refusal
Estimated Cost of Works:	\$ 2,970,000.00

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - 2014 - A4.11 North Narrabeen Locality

Pittwater 21 Development Control Plan - 2014 - B5.10 Stormwater Discharge into Public Drainage System

Pittwater 21 Development Control Plan - 2014 - B6.1 Access driveways and Works on the Public Road Reserve

Pittwater 21 Development Control Plan - 2014 - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - 2014 - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - 2014 - C1.4 Solar Access

Pittwater 21 Development Control Plan - 2014 - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - 2014 - C1.20 Undergrounding of Utility Services

Pittwater 21 Development Control Plan - 2014 - C1.21 Seniors Housing

Pittwater 21 Development Control Plan - 2014 - C1.24 Public Road Reserve - Landscaping and Infrastructure

Pittwater 21 Development Control Plan - 2014 - D11.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - 2014 - D11.3 Building colours and materials

Pittwater 21 Development Control Plan - 2014 - D11.6 Front building line

Pittwater 21 Development Control Plan - 2014 - D11.7 Side and rear building line

Pittwater 21 Development Control Plan - 2014 - D11.9 Building envelope

Pittwater 21 Development Control Plan - 2014 - D11.10 Landscaped Area - General

Pittwater 21 Development Control Plan - 2014 - D11.14 Construction, Retaining walls, terracing and undercroft areas

SITE DESCRIPTION

Property Description:	Lot 4 DP 6555 , 104 Taiyul Road NORTH NARRABEEN NSW 2101
Detailed Site Description:	The site is legally described as Lot 4, Section 4 in DP 6555, and is commonly referred to as 104 Taiyul Road, North Narrabeen. The site is rectangular in shape, with an 18.20m wide frontage to Taiyul Road, a maximum depth of 54.865m and a total area of 1003m ² . The site currently contains a single dwelling and swimming pool, located towards the rear of the site, with a number of established canopy trees around the dwelling and within the road reserve adjacent to the site. The site experiences a fall of approximately 8.61m from the upper rear boundary down towards the street, with a slope of approximately 15%. The site is located within an area characterised by single dwellings and dual

occupancies, with varied aged, scale and architectural form.

Map:



SITE HISTORY

Site History:

On 20 March 2017, Development Application N0097/17 was lodged, seeking consent for the use of the existing dwelling as a dual occupancy.

On 22 May 2017, Development Application N0097/17 was approved.

Note: Despite obtaining development consent, Development Application N0097/17 has not been acted upon, and as such, the existing development on the site remains classified as a single dwelling house.

Application History:

On 4 January 2018, the subject Development Application was lodged with Council.

On 1 May 2018, a letter was sent to the Applicant requesting that the subject application be withdrawn due to the following issues:

- access to services
- siting and orientation
- presentation to the street
- setbacks
- stormwater management
- driveway design
- visual privacy
- inadequate and inconsistent information.

On 16 May 2018, an email was sent to Council requesting an extension of time to prepare further

documentation to address the "additional information requested by Council". Noting that Council did not request any information, the request for an extension was refused.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for a seniors housing development comprising five independent living units at the subject site. Specifically, the application proposes:

- demolition of the existing dwelling,
- earthworks,
- construction of 5 independent living units in 3 buildings over basement carparking for 10 vehicles, as follows:
 - Building A: A two-storey building comprising 2 x 3 bedroom units (Units 1 and 3)
 - Building B: A two-storey building comprising 2 x 3 bedroom units (Units 2 and 4)
 - Building C: A single storey building comprising 1 x 3 bedroom unit (Unit 5)
- installation of two separate lifts connecting the basement to the two residential levels,
- construction of a detached garbage bin store,
- tree removal, and
- landscaping.

The application is also reliant upon considerable works within the public road reserve, both immediately adjacent to the site and extending along Taiyul Road and Garden Street, as follows:

- earthworks,
- construction of a new widened and lowered access driveway,
- construction of a pathway along the western side of Taiyul Road and connecting to the existing pathway in Garden Street,
- construction of a pathway along the eastern side of Taiyul Road and connecting to the existing pathway in Garden Street,
- the removal of existing kerb crossings on both sides of Taiyul Road, at the intersection of Taiyul Road and Garden Street,
- the reconstruction of 150m (approximately) of an existing footpath along Garden Street, including changes to multiple existing driveway crossings, and
- tree removal.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan ("P21 DCP") applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters can be addressed via conditions of consent.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via conditions of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has can be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the P21 DCP section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development. This is discussed further with respect to clause 26 of SEPP HSPD.
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	This assessment has found the proposal to be contrary to the relevant requirement(s) of PLEP 2014, SEPP HSPD and P21 DCP, and will result in a development which will create an

Section 4.15 Matters for Consideration'	Comments
	undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Nigel Benton	102 Taiyul Road NORTH NARRABEEN NSW 2101
Paul Van Den Bogaert Laudie Eleonora Maria Van Der Linden	31 A Bolwarra Road NORTH NARRABEEN NSW 2101

The matters raised within the submissions are addressed as follows:

- **Overdevelopment**

Comment: A submission has been received in objection to the proposed development, with concerns raised in regards to a perceived "overdevelopment" of the site. The submission makes reference to the inconsistency with the single occupancy or 'battle-axe' blocks that characterise the locality, which is a sentiment shared by the assessing officer and is discussed in further detail below.

- **Traffic**

Comment: Concern has been raised in a submission received regarding an increase in traffic associated with the proposal and the safety impacts that has upon the residential nature of the street. The increase in traffic associated with the proposed development has been considered by Council's Traffic Engineer, who raises no concerns in regards to the increase in traffic associated with the proposal.

- **Impacts on Trees**

Comment: A submission has been received which raises concerns about tree loss proposed on the subject site, in addition to a cumulative impact of the loss of trees throughout the locality as a whole. The proposed development has been sited to maintain a tree of reasonable significance along the northern boundary, however insufficient information has been provided regarding potential impacts upon canopy trees, which is considered to warrant refusal of the subject application.

- **Character/Density**

Comment:

A submission has been received in objection to the character of the proposed medium density development. The character of the development is discussed in detail further in the report with respect to clauses A4.11 and D11.1 of P21 DCP.

- **Use by people other than seniors**

Comment: Concern has been raised in a submission regarding the future use of the proposed seniors housing units, with an allegation that they will be used by people that are not seniors in the future. If the application was to be approved, a condition is required to be imposed under the provisions of SEPP HSPD to legally restrict the occupancy of the units for the life of the development.

- **Landscaping/screening**

Comment: A submission has been received in regards to the landscaping proposed at the rear of the site, identifying the desire to ensure that the visual impact of development is minimised and screened from view. The rear building is excavated into the slope of the site, and the landscaping proposed will ultimately grow to ensure that there visual impact of the intensified development is softened.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>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.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as those identified in the Statutory Compliance Review Report by Code Performance dated 14/12/2017 may be determined at Construction Certificate stage.</i></p>
Landscape Officer	The landscape proposal is acceptable
NECC (Bushland and Biodiversity)	The subject property is devoid of remnant bushland but includes some remnant trees and planted species. No threatened species are considered as likely to occur on the subject property. With reference to the Pittwater 21 Development Control Plan and relevant B4 Controls Relating to the Natural Environment, Council's biodiversity section raise no objections to the proposal subject to conditions.
NECC (Development)	The proposed method of stormwater management has been reviewed

Internal Referral Body	Comments
Engineering)	<p>and the proposed on-site stormwater detention (OSD) tank and retention tanks are deemed to of sufficient volume. The design indicates a connection of the outlet from the tanks via a pipeline that is shown exiting the site to the back of the existing kerb in Taiyul Road and then proceeding down the street to connect into an existing Council drainage pit downstream of the site. This proposed pipeline cannot be supported as private stormwater lines must only connect to the kerb with a maximum angle of 45 degrees to the boundary. A review of the level of the kerb indicates that the OSD tank is too low to comply with this requirement and will need to be amended to suit.</p> <p>The proposed driveway crossing into the site has been designed to minimise the grade. As a result, the existing levels of the nature strip will need to be adjusted to suit which may affect existing services and the roots of the existing street tree adjacent to the driveway. No details with regard to the possible conflict with the existing services or tree roots have been provided for assessment.</p> <p>The proposal requires the provision of a footpath to the nearest bus stops. An access report and drawings have been provided for this requirement which have been reviewed. There is a conflict between the report and the drawings detailing the required works to achieve the SEPP requirements for the proposal. In this regard, the footpath drawings are to be amended to show the provision of a new footpath along the frontage of the site up to the existing footpath at the corner of Garden St only. No amendment of the existing kerb ramps and footpath along Garden St is permitted. The above mentioned footpath will conflict with an existing street tree which may need to be removed as part of the works. This issue must be assessed by Council's Landscape Officer.</p> <p>The proposed development cannot be supported due to inadequate information to assess clauses B5, B6 and B8 of Council's DCP.</p>
NECC (Stormwater & Floodplain Engineering – Flood risk)	The property is not flood affected, by the FPL or PMF.
Traffic Engineer	There are no objections to approval of this DA on traffic grounds.
Waste Officer	

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. 871379M dated 30 November 2017).

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

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

A condition can be included to require 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)).

Compliance Table:

Clause	Standard	Proposal	C
Chapter 1 - Preliminary			
2	<p>Aims of Policy</p> <p>This Policy aims to encourage the provision of housing (including residential care facilities) that will:</p> <p>(a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and</p> <p>(b) make efficient use of existing infrastructure and services, and</p> <p>(c) be of good design.</p>		N

Clause		Standard	Proposal	C
4	Land to which the Policy applies	This Policy applies to land within NSW that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if development for the purpose of dwelling houses or residential flat buildings is permitted.	Dwellings are permissible with consent on the site.	Y
5	Relationship with other environmental planning instruments	If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, the Policy prevails to the extent of the inconsistency.		Y
Chapter 2 – Key Concepts				
13	Self-contained dwellings	<p>(1) General term: “self-contained dwelling” In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.</p> <p>(2) Example: “in-fill self-care housing” In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.</p>	The proposed development is consistent with the definition of in-fill self-care housing.	Y
Chapter 3 – Development for seniors housing				
Part 1 – General				
14	Objectives of Chapter	The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.		Y
15	What Chapter does	This Chapter allows for development on land zoned primarily for urban purposes for any form of seniors		Y

Clause		Standard	Proposal	C
		housing despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy.		
18	Restrictions on occupation of seniors housing allowed under this chapter	<p>Development allowed by this Chapter may be carried out for the accommodation of the following only:</p> <p>(a)seniors or people who have a disability,</p> <p>(b)people who live within the same household with seniors or people who have a disability,</p> <p>(c)staff employed to assist in the administration of and provision of services to housing provided under this Policy.</p> <p>A consent authority must not consent to a development application made pursuant to this Chapter unless:</p> <p>(a)a condition is imposed by the consent authority to the effect that only the kinds of people referred to above may occupy the building to which the application relates, &</p> <p>(b)the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i>, limiting the use of any accommodation to which the application relates to the kinds of people referred to above.</p>	Subject to conditions.	Y
Part 2 – Site-related requirements				
26	Location and access to facilities	<p>The consent authority must be satisfied, by written evidence, that residents of the proposed development will have compliant access to:</p> <p>(a)shops, bank service providers and other retail and commercial services that residents may reasonably require, and</p>	See discussion.	N

Clause		Standard	Proposal	C
		<p>(b)community services and recreation facilities, and</p> <p>(c)the practice of a general medical practitioner.</p>		
28	Water and sewer	The consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage	See 7.10 of PLEP 2014	N
29	Site compatibility criteria to which clause 24 does not apply	<p>Applies to development not subject to clause 24.</p> <p>A consent authority must take into consideration and have regard for the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p>		Y
Part 3 – Design requirements				
Division 1 - General				
30	Site analysis	The consent authority must not grant consent unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.		Y
31	Design of in-fill self-care housing	A consent authority must have consideration of the provisions of <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> .	See discussion.	N
32	Design of residential development	A consent authority must not consent to a development application unless satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.		N
Division 2 - Design Principles				
33	Neighbourhood amenity and streetscape	<p>The proposed development should:</p> <p>(a)recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p> <p>(b)retain, complement and sensitively harmonise with any heritage conservation areas in the</p>	See discussion.	N

Clause		Standard	Proposal	C
		<p>vicinity and any relevant heritage items that are identified in a local environmental plan, and</p> <p>(c)maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <p>(i)providing building setbacks to reduce bulk and overshadowing, and</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, and</p> <p>(iv)considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</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, and</p> <p>(e)embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</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>		
34	Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents.	See discussion.	N
35	Solar access and design for climate	<p>The proposed development should:</p> <p>(a)ensure adequate daylight to the main living areas of neighbours in</p>	See discussion.	N

Clause		Standard	Proposal	C
		<p>the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(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.</p>		
36	Stormwater	<p>The proposed development should:</p> <p>(a)control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</p> <p>(b)include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	See comments from Development Engineer.	N
37	Crime prevention	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>(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</p> <p>(b)where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p> <p>(c)providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>		Y
38	Accessibility	The proposed development should:	See clause 26	N

Clause		Standard	Proposal	C
		<p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	discussion.	
39	Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Subject to conditions.	Y
Part 4 – Development standards to be complied with				
Division 1 - General				
40	Development standards – minimum sizes and building heights	<p>A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.</p> <p>Site size</p> <p>The size of the site must be at least 1,000m².</p> <p>Site frontage</p> <p>The site frontage must be at least 20 metres wide measured at the building line.</p> <p>Height</p> <p>in zones where residential flat buildings are not permitted.</p>	<p>1003m²</p> <p>18.29m See discussion.</p> <p>7.9m</p>	<p>Y</p> <p>N</p> <p>Y</p>
41	Standards for hostels and self-contained dwellings	A consent authority must not consent to a development application for self-contained dwellings unless the proposal complies with the standards specified in Schedule 3.	Subject to conditions.	Y
Part 7 – Development standards that cannot be used as grounds to refuse consent				
Division 1 - General				
46	Inter-relationship of Part with design principals in Part 3	Nothing in this Part permits the granting of consent to a DA made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.		Y
Division 4 –Self-contained dwellings				
50	Standards that cannot be used to refuse development consent	<p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds:</p> <p>building height:</p>	7.9 metres	Y

Clause	Standard	Proposal	C
	if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),		
	density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less	0.59:1	N
	landscaped area: If a minimum of 30% of the site is to be landscaped.	31%	Y
	deep soil zones: If a minimum of 15% of the site comprises seep soil zones	15%	Y
	solar access: if living rooms and private open space of 70% of the dwellings receive a minimum of 3 hours direct sunlight between 9am to 3pm.	Further information required.	N
	private open space: if 15m ² , with a minimum dimension of 3m, is provided for ground floor dwellings and 10m ² , with a minimum dimension of 2m, is provided for upper floor dwellings.	Unit 1: 15m ² + Unit 2: 18m ² + Unit 3: 15m ² + Unit 4: 18m ² + Unit 5: 15m ² +	Y
	parking for residents and visitors: if at least 0.5 car spaces for each bedroom is proposed.	10 spaces	Y

Detailed discussion:

- Clause 26 (Location and access to facilities)**

Clause 26 provides that a consent authority must not consent to a development made pursuant to this policy unless it can be satisfied, by written evidence, that residents will have access that complies to shops, bank service providers and other retail services, community services, recreation facilities, and the practice of a general practitioner. One way that access is said to comply is if the proposal is located within 400m from a regularly serviced bus stop and if access to the bus stop is by means of a "suitable access pathway". A "suitable access pathway" is a path of travel by means of a sealed footpath that is suitable for access by means of an electric wheelchair, motorised cart or the like and that has an overall gradient along the pathway of no more than 1:14.

The applicant has demonstrated that the site is located within 400m of bus stops that will take occupants of the development to the necessary services, however at present, the bus stops are not accessible by means of a suitable access pathway. The application was supported by an

Access Report and civil engineering detail demonstrating the necessary new works and upgrades that will be required to provide safe and suitable access between the two existing bus stops and the subject site. However, these works are not minor, nor without impact, and are not supported by Council (the Roads Authority), for the following reasons:

- the proposal necessitates the upgrade of an 150m (approximate) length of footpath along Garden Street, impacting upon street trees and existing access driveways,
- the proposal relies upon the removal of existing kerb crossing points, removing a direct travel along Garden Street,
- the new footpath along the western side of Taiyul Road will likely impact upon two existing street trees and existing underground services,

Without endorsement from Council for these works, the proposal cannot meet the access requirements of clause 26 of SEPP HSPD, and the proposal is unable to be supported in this regard.

• **Clause 31 (Design of in-fill self-care housing)**

Pursuant to Clause 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 following comments are made in consideration of this policy:

Responding to context: The proposed development, which is comprised of three separate buildings above a basement carpark, is not consistent with the built form of surrounding low-density development, which is generally limited to one or two separate buildings on an equivalent land size. Furthermore, the design is not responsive to the provisions of P21 DCP, with non-compliance relating to front, rear and side setbacks, building envelope, and landscaped area.

Site planning and design: The proposed development is inconsistent with the objectives that aim to:

- minimise the impact of new development on neighbourhood character,
- provide high levels of amenity for new dwellings
- provide housing choice through a range of dwelling sizes.

Impacts on streetscape: The proposal is inconsistent with the following design principles and better practice guidelines:

- reduce the visual bulk of a development by setting back upper levels behind the front building facade.
- retain existing trees and planting in front of the development and in the road reserve.
- locating and treating garbage storage areas so that their visual impact on the public domain is minimised.
- where basement car parking is used, do not locate the entrance in the centre of the site if it is visually prominent.

The scale and density of the proposal is inconsistent with the character of Taiyul Road and the desired character for the North Narrabeen Locality.

Impacts on neighbours: The orientation of the dwellings is towards the side boundaries,

inconsistent with the 'front and back' orientation prescribed by the design principles and better practice guidelines, resulting in unacceptable impacts upon the amenity of adjoining dwellings.

Internal site amenity: The proposal is excavated into the site such that the living areas of Units 2 and 5 are well below ground level. The impact of this excavation combined with proposed overhangs and upper floor balconies compromise solar access to these units and the application has not demonstrated that adequate solar access can be achieved.

- **Clause 33 (Neighbourhood amenity and streetscape)**

The proposed development is not considered to recognise the existing or desired future character of the locality, and the visual impact of the medium density nature of the proposal has not been appropriately minimised for the low-density context. The proposal does not relate to the natural topography of the land, with mass excavation proposed across the majority of the site. The scale of the development is also at odds with surrounding built form, particularly with regard to the single storey dwelling to the north. See further discussion with regard to clause A4.11 and D11.1 of P21 DCP.

- **Clause 34 (Visual and acoustic privacy)**

As discussed in further detail with regard to clause C1.5 of P21 DCP, the proposal has not been designed to ensure that the amenity of adjoining properties is reasonably retained.

- **Clause 35 (Solar access and design for climate)**

The application was not supported by adequate information with regard to solar access, as discussed with regard to C1.4 of P21 DCP.

- **Clause 38 (Accessibility)**

As discussed with regard to clause 26 of SEPP HSPD, the application has not demonstrated safe access to services.

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

Clause 50 provides that a consent authority must not refuse a development application for self-contained dwellings made under the provisions of SEPP HSPD on the basis of density and scale when the bulk and scale of the development expressed as a floor space ratio is 0.5:1 or less. The proposal has a floor space ratio of 0.59:1, and as such, the proposal may be refused on these grounds.

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?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	550sqm	-	-	-
Minimum lot sizes for dual occupancies	800sqm	-	-	-
Height of Buildings:	8.5m	8.1m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	No
7.1 Acid sulfate soils	Yes
7.2 Earthworks	No
7.6 Biodiversity protection	Yes
7.10 Essential services	No

Detailed Assessment

4.6 Exceptions to development standards

The proposal is non-compliant with the 20m minimum site frontage prescribed by clause 40(3) of SEPP HSPD. The minimum site frontage prescribed by clause 40 of SEPP HSPD is a development standard, as defined by Environmental Planning and Assessment Act 1979, and as such the provisions of clause 4.6 of PLEP 2014 can be applied.

Pursuant to clause 4.6(2) of PLEP 2014, consent may be granted for development even though the development would contravene a development standard prescribed by an environmental planning instrument. However, pursuant to clause 4.6(4), consent can only be granted if Council is satisfied that the applicant's written submission on the matter is well founded and if the proposal is in the public's interest by being consistent with the objectives of the specific development standard and the relevant zoning.

The applicant has provided a written statement which puts forward that compliance with the 20m site frontage development standard is both unreasonable and unnecessary in the circumstances of this case for the following reasons:

- *the site has a width of 18.29m which is only 1.71m short of the minimum requirement.*
- *the proposal as demonstrated by the accompanying plan and reports provides for a development outcome that is otherwise generally consistent with the requirements of Council.*

- *the proposal will not result in unreasonable impacts upon adjoining properties or the streetscape.*

The following assessment of the variation to clause 40(3) Site Frontage of SEPP HSPD has taken into consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.

Requirement:	20m
Proposed:	18.29m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	8.55%

What are the underlying objectives of the development standard?

Clause 40 of SEPP HSPD does not have any direct objectives associated with the minimum site frontage development standard. However, the *Seniors Living Policy: Urban Design Guidelines for Infill Development* attributes the minimum frontage to a number of objectives associated with Site Planning and Design, which are considered as follows:

- *to minimise the impact of new development on neighbourhood character*

Comment: The neighbourhood surrounding the site is characterised by single dwellings and dual occupancies, in a leafy, landscaped setting. Whilst there are examples of 3 storey dwellings on Taiyul Road, the dominant character of built form in the locality is one and two storey dwellings. The proposed development does not appropriately minimise the medium density character of the proposal, and as a result, the scale of the development appears at odds with the existing low density character of the streetscape.

This impact is compounded by a dominance of development forward of the front facade of the three storey development, where the majority of the front setback is comprised of the proposed excavated driveway, multiple pedestrian access ways, and a garbage store room. Whilst it is appreciated that these elements are essential to the development proposed, it is likely that a wider block would allow for a more skilful design solution, where additional landscaping could be provided to ensure that these elements do not dominate the streetscape.

- *to retain existing natural features of the site that contribute to neighbourhood character*

Comment: Street trees are prevalent throughout the locality and are a key natural feature that contribute to the character of Taiyul Road, Garden Street and wider North Narrabeen Locality. The application proposes excavation and works in the TPZ of a number of street trees; the impacts of which have not been qualified. Without demonstration that the trees can be safely retained, it is assumed that the works will result in the removal of those trees, which will have an unacceptable impact upon the neighbourhood character.

Particular concern is raised in regards to the impact upon the mature Eucalyptus tree in the road reserve, which will be impacted as a result of the proposed excavated access way and driveway. The potential impacts upon this tree are directly associated with infrastructure that is only necessary to achieve the access requirements of SEPP HSPD, and would not be required for dwelling or dual occupancy development otherwise anticipated on the site.

- *to provide high levels of amenity for new dwellings*

Comment: The proposal is heavily reliant upon excavation, such that the living space of Unit 2 and private open space areas of Units 2 and 5 are well below ground and surrounded by retaining walls. In relation to Unit 2, this is compounded by the proposed raised planter boxes along the boundary which are required due to the non-compliant setbacks of the basement below. The non-compliant site width is too narrow to provide for the proposed basement design, resulting in the need to provide above ground raised planters to provide necessary screen planting along the side boundaries. The retaining walls and planters not only create a sense of enclosure, but also limit solar access to the living areas, to a point where the amenity of the dwellings is comparably poor.

- *to maximise deep soil and open space for mature tree planting, water percolation and residential amenity*

Comment: As discussed above, the non-compliant site width can be directly attributed to the lack of deep soil planting along the common side boundaries and a dominance of development within the front setback. Whilst it is appreciated that the proposal meets the minimum requirements for deep soil planting on the site, the landscaped area proposed is not comparable to surrounding development which have much higher proportions of landscaped area. Furthermore, the extent of earthworks and resultant retaining walls limits the quality of landscaping proposed, such that larger, more significant canopy trees cannot be accommodated on the site. This is also at odds with the character of the surrounding locality, where the higher proportion of landscaped area provides a mechanism for the incorporation of more significant landscaping.

- *to minimise the physical and visual dominance of carparking, garaging and vehicular circulation*

Comment: It could be said that the minimum frontage of 20m is prescribed to ensure that the more onerous access provisions of SEPP HSPD development do not overwhelm or dominate the surrounding low density streetscape. The *Seniors Living Policy: Urban Design Guidelines for Infill Development*, is relevant to the proposal and prescribes a series of design criteria to ensure that an infill development appropriately responds to the streetscape. As proposed, the development is inconsistent with these provisions, in addition to the character and setback provisions of P21 DCP, and it is likely that this form of development would benefit from a wider street frontage.

- *to provide housing choice through a range of dwelling sizes*

Comment: The proposal does not provide any real degree of housing choice, with 5 x 3 bedroom units of an equivalent size and scale.

Overall, the proposal is not considered to achieve the Site Planning and Design objectives associated with the minimum street frontage width development standard.

What are the underlying objectives of the zone?

The objectives of the R2 Low Density Residential zone are considered as follows:

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

Comment: It is acknowledged that there is an aging population within the Northern Beaches, and seniors housing will contribute to the housing needs of the community. Furthermore, as the proposal is surrounded by dwellings and dual occupancies, the proposal can be said to be within a low density residential environment. However, the design of the proposal is not compatible with the low density environment, as discussed further below.

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

Comment: the proposal does not provide a service or facility that meets the day to day needs of residents of the wider locality.

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

Comment: The development has not been sensitively designed to respond to the low density character of the locality, with a medium density presentation to the street, inconsistent with the scale of surrounding development.

Overall, the proposal is not considered to be consistent with the objectives of the R2 Low Density Residential zone.

Is compliance unreasonable or unnecessary in the circumstances of the case?

In accordance with the NSWLEC decision in *Wehbe v Pittwater Council*, one way in which strict compliance can be seen to be unreasonable or unnecessary is if it can be demonstrated that the objectives of the standard are otherwise achieved, despite non-compliance with the development standard. As considered above, the proposal is not consistent with the objectives of the development standard or the R2 zone, and there is no reason to suggest that strict compliance with the 20m standard would be unjustified in the circumstances of this case.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the PLEP 2014?

The objectives of clause 4.6 of PLEP 2014 are considered as follows:

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

Comment: Whilst it is appreciated that there are instances that would warrant flexibility in the application of certain standards, nothing in the application before Council suggests that providing flexibility with regard to the minimum site frontage development standard is appropriate in relation to this proposal.

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

Comment: The application has not demonstrated that a better outcome is achieved despite non-compliance with the minimum site frontage development standard. If anything, as proposed, the development would benefit from additional width to provide a higher level

of amenity and to minimise impacts upon the streetscape.

Overall, the proposal is not considered to be consistent with the objectives of clause 4.6 of PLEP 2014.

Is the Applicant's submission well-founded?

Pursuant to clause 4.6(3) of PLEP 2014, development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

The Applicant has not demonstrated that compliance with the development standard is unreasonable or unnecessary, and has not provided any site specific justification or planning grounds as to why the contravention should be supported. Overall, the applicant's submission is not considered to be well-founded.

Is the proposed development in the public interest?

A development is seen to be in the public's interest if it is consistent with the objectives of the development standard and the zone in which the particular development is carried out. As discussed above, the proposal is not considered to be consistent with the objectives of the development standard or the R2 zone.

Has concurrence been obtained?

Pursuant to clause 4.6(4) of PLEP 2014, development consent must not be granted unless the concurrence of the Secretary has been obtained. Pursuant to Planning Circular PS 18-003, the concurrence of the Secretary may be assumed by a delegate of Council for any variation less than 10%. The proposed variation is less than 10%.

Summary

The application has not demonstrated that strict adherence with the 20m minimum frontage development standard is unreasonable or unnecessary in the circumstances of this application, and the submission provided on the matter is not considered to be well founded. Non-compliance with the minimum frontage development standard is considered to warrant the refusal of the subject application.

7.2 Earthworks

The application is proposing extensive earthworks and excavation in close proximity of the property boundaries, to a degree that triggers the application of the *Geotechnical Risk Management Policy for Pittwater*. The application was not supported by the relevant technical reports and forms required by this policy, and as such, Council cannot be satisfied that the proposal will not have a detrimental impact on drainage patterns or soil stability on the site or in the locality, and consistency with the objectives of this clause cannot be confirmed.

7.10 Essential services

The application proposes to intensify the density of the site by 500%, yet no information has been provided to confirm that the site can be appropriately serviced by existing services. In particular, written

advice is required from Sydney Water and the relevant energy provider to confirm that the existing infrastructure within the locality can accommodate the additional load resulting from this intensified development.

Pittwater 21 Development Control Plan - 2014

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Nil	100%	No
Rear building line	6.5m	3-6m	23-58%	No
Side building line	2.5m	0.6m	76%	No
	1m	0.6m	40%	No
Building envelope	3.5m	Outside envelope	-	No
	3.5m	Outside envelope	-	No
Landscaped area	50%	32%	36%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.11 North Narrabeen Locality	No	No
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.6 Wildlife Corridors	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.4 Stormwater Harvesting	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	No	No
B6.1 Access driveways and Works on the Public Road Reserve	No	No
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	No	No
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	No	No

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	No	No
C1.5 Visual Privacy	No	No
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	No
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	No	No
C1.21 Seniors Housing	No	No
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	No	No
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D11.1 Character as viewed from a public place	No	No
D11.2 Scenic protection - General	Yes	Yes
D11.3 Building colours and materials	No	Yes
D11.6 Front building line	No	No
D11.7 Side and rear building line	No	No
D11.9 Building envelope	No	No
D11.10 Landscaped Area - General	No	No
D11.14 Construction, Retaining walls, terracing and undercroft areas	No	No

Detailed Assessment

A4.11 North Narrabeen Locality

The proposed seniors housing development is reliant upon extensive earthworks, will result in the removal of a number of significant trees, and will present as a three storey development surrounded by extensive retaining walls as seen from the street. The bulk and scale of the development has not been appropriately minimised, and the visual impact of the medium density development will appear at odds with surrounding one and two storey dwellings. The sectional detail demonstrates that the proposal necessitates cut and fill over the entire footprint of the development, up to 7m in depth below the central building, such that it cannot be said that site disturbance has been minimised. Furthermore, despite such extensive excavation, the application was not supported by necessary technical information to ensure that it has been designed to be safe from hazards.

As proposed, a balance between maintaining the natural features of the site and the development of land has not been achieved, and the development cannot be said to be consistent with the desired future character of the North Narrabeen Locality.

B5.10 Stormwater Discharge into Public Drainage System

See comments from Council's Development Engineer above.

B6.1 Access driveways and Works on the Public Road Reserve

Driveway

The application is not supported by sufficient information to appropriately consider the works, and associated impacts of those works, within the road reserve. In particular, concern is raised in relation to the excavation associated with the proposed new access driveway and impacts upon an existing mature street tree immediately adjacent to the proposed works.

Footpath

The application proposes new footpaths to connect to Garden Street and the reconstruction of an 150m (approximately) length of existing footpath along Garden Street. Insufficient information has been provided in relation to these works, with specific concern raised in relation to potential impacts upon existing street trees and eight existing driveway crossings of nearby dwellings.

See comments from Council's Development Engineer above.

B6.3 Off-Street Vehicle Parking Requirements

Clause B6.3 of P21 DCP does not contain specific parking requirements for seniors housing development, but rather refers to the *RMS Guide to Traffic Generating Developments*, which prescribes the following in relation to self-contained units:

- 2 spaces per 3 units (residents), plus
- 1 space per 5 units (visitors).

The proposal, which provides 2 spaces for each of the 3 x bedroom self-contained units proposed, exceeds the minimum requirements for resident parking; However, with no visitor parking proposed, the proposal is non-compliant with the minimum requirement for visitor parking.

Despite this non-compliance, the lack of visitor parking is not considered to warrant the refusal of this application, in the circumstances where ample on-street parking is available and where a surplus of residential spaces is provided. Furthermore, the application has been lodged under the provisions of SEPP HSPD, which provides that a seniors housing development comprised of self-contained dwellings cannot be refused if at least 0.5 spaces per bedroom is provided. The proposal meets this requirement with 10 spaces proposed.

B8.1 Construction and Demolition - Excavation and Landfill

The application proposes extensive excavation in close proximity of property boundaries, triggering the application of the *Geotechnical Risk Management Policy for Pittwater*. However, the application was not supported by a geotechnical risk management report, and as such, consistency with the outcomes of this control cannot be confirmed.

C1.4 Solar Access

The shadow diagrams provided to support the application have been prepared in relation to the site/roof plan, and do not demonstrate solar access to the living rooms and areas of private open space associated with each of the 5 dwellings proposed. Given the extent of excavation proposed, the resultant height of retaining walls, and the location of upper floor structures, it has not been satisfactorily demonstrated that Units 1, 2 and 5 will receive a minimum of 3 hours of direct sunlight to areas of private open space and windows associated with living rooms during mid-winter.

C1.5 Visual Privacy

The majority of the units proposed are oriented towards the northern side boundary, providing opportunities to overlook properties to the north. Particular concern is raised in relation to Units 1 and 3, where the living room windows and balconies are elevated above ground, and within 9m of the main area of private open space at the rear of the adjoining dwelling at 106 Taiyul Road. As proposed, the orientation will result in unacceptable impacts upon the amenity of adjoining properties. These impacts are directly attributed to non-compliance with the provisions of this clause and clause C1.7 of P21 DCP, which prescribes that private open space should be oriented towards the front and rear of properties.

C1.20 Undergrounding of Utility Services

Clause C1.20 of P21 DCP requires all existing overhead utilities to be relocated underground for the full frontage of the site. Overhead low voltage power lines are present within the road reserve adjacent to the site; However no information has been provided to suggest that the application proposes the undergrounding of this infrastructure and the requirement has not been addressed in the SOEE provided.

If the overhead infrastructure was to remain, the proposal will be unable to achieve consistency with the outcomes of this clause which aim to ensure that:

- visual pollution by aerial cables is reduced,
- safety is improved by removal of visual clutter,
- opportunities for street tree planting is enhanced,
- safety of building occupants is enhanced, and
- the security of the infrastructure is improved.

The application proposes a new excavated footpath within the sloping road reserve, immediately adjacent to the road pavement, extending between the subject site and Garden Street. These footpath works will necessitate the removal of two existing mature street trees and will prevent any opportunity for replacement street trees, as they only remaining space would be below the overhead infrastructure. This would be a poor outcome for the streetscape, particularly in the circumstances where the overly large development would benefit from the screening that street trees would otherwise provide.

Overall, the lack of information in this regard, combined with the lack of information relating to essential works within the road reserve, is considered to warrant the refusal of the subject application.

C1.21 Seniors Housing

The design of the proposed development attribute to inconsistency with the provisions of this clause which prescribe that infill seniors housing development should be in keeping with the development of the surrounding low density area in regard to bulk, scale and character. Furthermore, as discussed with regard to clause A4.11 of P21 DCP, the proposal is inconsistent with the outcomes of this development

which aim to ensure consistency with the desired future character of the North Narrabeen Locality.

C1.24 Public Road Reserve - Landscaping and Infrastructure

The proposed footpath works and the retention of overhead infrastructure will result in inconsistency with the provisions of this development control, which aim to retain and enhance existing street trees. The proposal is supported by insufficient information relating to the potential impacts upon street trees and the landscape plan provided does not propose any works within the road reserve.

D11.1 Character as viewed from a public place

The proposed seniors housing development presents as a three storey multi-unit development as seen from Taiyul Road, with the setback dominated by the proposed excavated driveway, walkways and bin store, such that the built form cannot be screened by landscaping. The bulk and scale of the proposed built form has not been minimised, does not step up away from the street, and the resultant development will not be secondary to landscaping. Overall, the proposed seniors housing development is at odds with the desired future character of the North Narrabeen Locality, and is inconsistent with the requirements and outcomes of this development control.

D11.3 Building colours and materials

The 'Finishes Legend' provided to support the application is generally comprised with dark and earthy tones, with the exception of the proposed use of Dulux 'Sandy Day', which is a light beige colour. Should the application be approved, a condition could be drafted to require this colour to be replaced by a darker tone.

D11.6 Front building line

Whilst the primary facade of the building is set back 6.5m from the front boundary, generally consistent with the established front building line, the application proposes a garbage room in the north-eastern corner of the site with a nil setback to the front boundary. The inclusion of a large garbage enclosure along the front boundary is not consistent with the existing low-density streetscape and actively restricts opportunities for landscaping that is required to screen the intensified multi-dwelling housing built form.

As proposed, the development fails to achieve consistency with minimum setback prescribed, in addition to the following outcomes by this control:

- *Achieve the desired future character of the Locality.*
- *Vegetation is retained and enhanced to visually reduce the built form. (En)*
- *To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.*
- *To encourage attractive street frontages and improve pedestrian amenity.*
- *To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

D11.7 Side and rear building line

The proposed basement is situated at a distance of approximately 650mm from both side boundaries, inconsistent with the 1m/2.5m minimum setback requirements of this development control. Furthermore, with the central building situated 1m from the northern side boundary and the front

building situated 1.8m from the southern side boundary, the exposed built form is also inconsistent 1m/2.5m minimum setback requirements of this development control. The western facade of the rear building is sited 6m from the rear boundary, with a pergola structure located approximately 3m from the rear boundary, inconsistent with the 6.5m minimum setback prescribed by this development control.

These reduced setbacks attribute to unreasonable impacts upon the amenity of adjoining properties, and actively restrict the ability to provide meaningful landscaping, such that the outcomes of the development control cannot be achieved. Overall, the accumulation of non-compliant setbacks present as an over-development of the subject site.

D11.9 Building envelope

The proposed development protrudes beyond the prescribed building envelope at a number of points along the northern and southern side facades of the front two buildings. In some circumstances these breaches attribute to unreasonable visual privacy impacts upon adjoining properties, and collectively, the areas of non-compliance contribute to a perceived over-development of the low-density site.

D11.10 Landscaped Area - General

The applicant nominates a landscaped area calculation of 371.6m² or 31.66% of the total site, well short of the 50% minimum prescribed by this development control. It is appreciated that clause 50 of SEPP HSPD provides that a consent authority must not refuse a development for self-contained dwellings based on landscaping if a minimum of 30% of the site is to be landscaped; However, the application has not adequately demonstrated that the provisions of SEPP HSPD are applicable to the site.

As proposed, the development is inconsistent with the minimum landscaped area requirement of this development control, in addition to the following outcomes:

- *Achieve the desired future character of the Locality.*
- *The bulk and scale of the built form is minimised.*
- *A reasonable level of amenity and solar access is provided and maintained.*
- *Vegetation is retained and enhanced to visually reduce the built form.*
- *Conservation of natural vegetation and biodiversity.*
- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*
- *To preserve and enhance the rural and bushland character of the area.*
- *Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.*

D11.14 Construction, Retaining walls, terracing and undercroft areas

The proposal is reliant upon a considerable volume of excavation, which in some instances, is to the detriment of the amenity of the proposed units. Furthermore, excavation and earthworks are proposed along the public road reserve, with unknown/unqualified impacts upon existing canopy trees and services. The proposal does not protect and minimise disturbance of natural ground levels and the development has not been designed to respond sensitively to the natural topography, and as such, the proposal fails to achieve the outcomes of this development control.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2017/1379 for the Demolition of existing dwelling house and construction of five 5 self-contained seniors dwellings on land at Lot 4 DP 6555,104 Taiyul Road, NORTH NARRABEEN, for the reasons outlined as follows:

1. The proposed development fails to demonstrate consistency with the location and access provisions prescribed by clause 26 of SEPP HSPD, noting that Council (as the Roads Authority) does not support the extent of works within the road reserve required to provide a suitable access pathway between the site and the nearest bus stops. Without a well-founded request to vary this development standard, Council is unable to approve the development.
2. The proposed development is inconsistent with the 20m minimum frontage development standard prescribed by clause 40 of SEPP HSPD, and the application has not demonstrated that the strict compliance with this development standard is unreasonable or unnecessary in the circumstances of this proposal. Furthermore, the submission made pursuant to clause 4.6 of PLEP 2014 is not considered to be well-founded, as it does not provide sufficient environmental

planning grounds to justify the contravention, or demonstrate that departure from the minimum requirement will be in the public interest and result in a better outcome as a result of the variation.

3. The application is supported by inconsistent and insufficient information, such that consistency with a number of development standards, controls and objectives/outcomes cannot be demonstrated. Specifically, the application is deficient with respect to:
 - the lack of a geotechnical risk management report, as required by clause B8.1 of P21 DCP and the *Geotechnical Risk Management Policy for Pittwater*.
 - the lack of consideration of potential impacts to existing street trees in close proximity to proposed earthworks.
 - the lack of solar access diagrams for the individual dwellings proposed, with no representation of compliance with relevant minimum controls.
 - the civil drawings, landscape plans and architectural drawings are inconsistent amongst themselves.
4. The scale, form and landscaped treatment of the proposed seniors housing development is inconsistent with the relevant standards, controls and objectives of PLEP 2014, SEPP HSPD and P21 DCP, resulting in an oversized development, that is incompatible with the existing streetscape and inconsistent with the desired future character of the locality. Furthermore, the application does not demonstrate a high amenity for all proposed dwellings, and the proposal results in unacceptable impacts upon adjoining properties.

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

Signed




Rebecca Englund, Planner

The application is determined under the delegated authority of:



Matthew Edmonds, Manager Development Assessments


























ATTACHMENT A



Notification Plan	Title	Date
 2018/005624	Plans - Notification	04/01/2018

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/005584	Report - Basix Assessor Construction Summary	22/12/2017
 2018/005585	Report - BASIX Certificate	22/12/2017
 2018/005582	Report - Access Report	22/12/2017
 2018/005583	Report - Arborist Report	22/12/2017
 2018/005588	Report - BCA Report	22/12/2017
 2018/005589	Report - Ecological Constraints Analysis	22/12/2017
 2018/005590	Report - Statement of Environmental Effects	22/12/2017
 2018/005591	Report - Traffic Impact Assessment	22/12/2017
 2018/005592	Report - Waste Management Plan	22/12/2017
 2018/005587	Report - Basix UAC Summary	22/12/2017
 DA2017/1379	104 Taiyul Road NORTH NARRABEEN NSW 2101 - Development Application - New	28/12/2017
 2018/005423	DA Acknowledgement Letter - Jason Bernard Attfield	04/01/2018
 2018/005601	Plans - Internal	04/01/2018
 2018/005580	Plans - Master Set	04/01/2018
 2018/005599	Plans - External	04/01/2018
 2018/005598	Fee Form	04/01/2018
 2018/005597	Development Application	04/01/2018
 2018/005594	Applicants Details	04/01/2018
 2018/005596	Development Application Ckecklist	04/01/2018
 2018/005593	Report - Cost Estimate	04/01/2018
 2018/005624	Plans - Notification	04/01/2018
 2018/014790	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2017/1379 - 104 Taiyul Road NORTH NARRABEEN NSW 2101	05/01/2018
 2018/023401	DA Acknowledgement Letter (not integrated) - Jason Bernard Attfield	08/01/2018
 2018/023410	Development Application Advertising Document - Jason Bernard Attfield	08/01/2018
 2018/023605	Notification Letter - DA	08/01/2018
 2018/057573	Building Assessment Referral Response	13/01/2018
 2018/058698	Waste Referral Response	15/01/2018
 2018/111030	Submission - Van Der Linden & Van Den Bogaert	11/02/2018
 2018/107172	Submission - Benton	12/02/2018
 2018/107428	Natural Environment Referral Response - Flood	12/02/2018
 2018/109984	Submission Acknowledgement Letter - Nigel Benton - SA2018/107172	13/02/2018

	2018/112344	Submission - Benton	13/02/2018
	2018/118075	Submission Acknowledgement Letter - Nigel Benton - SA2018/112344	15/02/2018
	2018/118101	Submission Acknowledgement Letter - Laudie Eleonora Maria Van Der Linden & Paul Van Den Bogaert - SA2018/111030	15/02/2018
	2018/157501	DA2017/1379 - 104 Taiyule Road - Traffic Engineer Referral Response	06/03/2018
	2018/177506	Landscape Referral Response	15/03/2018
	2018/177515	Landscape Referral Response	15/03/2018
	2018/206441	Plans - Landscape Plan	28/03/2018
	2018/206718	Natural Environment Referral Response - Biodiversity	28/03/2018
	2018/228318	Development Engineering Referral Response	11/04/2018
	2018/264460	DA Follow Up Referral - Jason Bernard Attfield	01/05/2018
	2018/264543	Request for Withdrawal of Development Application - Jason Bernard Attfield	01/05/2018
	2018/267869	Request for Withdrawal of Development Application - Jason Bernard Attfield - DA2017/1379	01/05/2018
	2018/299343	Request for time extension - 104 Taiyul Road North Narrabeen	16/05/2018
	2018/304561	Reply to request for extension - 104 Taiyul Road, North Narrabeen - DA2017/1379	21/05/2018