

8 October 2019

16321

Ms Felicity Rourke  
Partner, Allens  
By email: felicity.rourke@allens.com.au

Dear Ms Rourke,

## **AVEO, PENINSULA GARDENS**

### **Introduction**

This planning statement has been prepared on behalf by Ethos Urban on behalf of Aveo in respect of the proposed modifications to development consent 82/149.

### **Further Amendments to the Proposed Scheme**

In order to respond to the contentions raised by Council in the proceedings, Aveo has made amendments to the modification application presently before Council. These amendments can be summarised as the following:

- ILUs 1, 2, 17 & 18 have been deleted from the scheme (western most building);
- Four new ILUs are proposed under the dwellings located on the lower side of the central road (now referred to as ILU 21 through to ILU 24 (all of these dwellings are located above the Flood Planning Level);
- The length of the internal road has been reduced in area and is located 83m further east from the western boundary;
- The Asset Protection Zone (APZ) has been reduced in size resulting in a reduction of vegetation clearing of 4,325m<sup>2</sup>;
- The remaining ILUs on the top side of the loop road have been shifted to the west to allow for greater separation between the proposed dwellings (approximately 10m additional separation between dwellings);
- A new lift proposed between buildings 1AA and 5A providing equitable access between the lower and upper sections of the loop road;
- Ramp from Stage 2 to main facilities reconfigured with reduced switchbacks; and
- The riparian corridor is retained as existing and is no longer proposed to be piped.

### **Substantially the Same Development**

In our assessment, the development as proposed to be modified remains substantially the same as that originally approved by the Court.

The proposed amendments will result in a revised scheme that will ensure that the siting of the ILUs will be more sympathetic to its landscape setting, provide more generous building separation between ILUs through the refinement of building footprints that are of a modest scale and the incorporation of a lift to provide equitable access between sections of the loop road. Collectively, these amendments will result in a proposed development that is more consistent with the original development as approved by the Court.

### Aspects of the proposal that are the unchanged

When considering the proposed modification application in the context of the original approval, I note that the following fundamental aspects of the proposal remain the same:

- Purpose: Seniors housing development.
- Accommodation Types: Independent living units and serviced apartments.

- Access: Primary access via Cabbage Tree Road and secondary access via Gulia Street.
- Parking: Each independent living unit provided with a parking space, additional parking provided for serviced apartments and staff.
- Site area: Approximately 7 hectares.
- Services: Village Centre provided and regular bus transport service. Domiciliary assistance can also be provided if required to the independent living units.
- Infrastructure Provision: Strategy of augmentation of services including gas, electricity, water, sewer, telecommunications, remains the same.
- Mitigation of visual impacts: Retention of vegetation where possible, planting of new vegetation and use of sympathetic building materials and colours.

#### Aspects of the proposal that are modified, but substantially the same as the approved development

Having regard to the aspects of the proposal which differ from the originally approved development, these changes can be best understood as being responsive to changes in planning legislation, policy and design requirements for seniors housing as set out below.

#### *Bushfire Protection*

The number of independent living units has been reduced, and their arrangement on the site within stage 2 has been modified to provide suitable asset protection zones, as required by RFS' 'Planning for Bushfire Protection' requirements. These requirements came into force in 2006 and did not exist at the time the development was originally approved. These requirements impose more onerous design criteria in terms of site layout, particularly for seniors housing. The changes made to respond to these requirements will also result in a better outcome in terms of environmental impacts, such as traffic generation and ecological impacts, when compared with the approved scheme.

#### *Riparian Protection*

Several of the approved dwellings that were located within the protected riparian zone have been deleted in the modified proposal. This change is to ensure protection of the riparian zone in accordance with the requirements of the *Water Management Act 2000*. These requirements were not in force at the time the development was originally approved.

#### *Additional Flooding Information*

The number of independent living units has been reduced, and their arrangement on the site within stage 2 has been modified to respond to flood planning information that was not available at the time the development was originally approved. Since 1982, further flooding studies have been undertaken for the site which have revealed that several of the approved dwellings were flood affected. The modified proposal seeks to delete those dwellings which were flood affected and has also located all of the remaining dwellings in Stage 2 above the flood planning level.

#### *Accessibility*

The design and layout of the independent living units have been modified, to respond to modern accessibility standards for seniors housing. Many of the originally approved dwellings were accessed by stairs and had garages located at the level below the primary living area of the dwelling. The stage 2 dwellings have been modified, to ensure that at grade access is available to all of the dwellings proposed. The garages to all of the dwellings have also been relocated to the same level as the dwelling further improving the accessibility of each dwelling. Finally the units are slightly larger to improve internal accessibility and allow for better internal circulation space.

#### *Road Layout*

The road layout in stage 1 and the primary access to the site remain the same. The road layout in Stage 2 is changed to a one-way circular loop, to connect with the existing two-way internal service road within the site. This is proposed to reflect current road design standards and also better meets the requirements of the Rural Fire Service.

#### Conclusion

Having regard to the qualitative and quantitative aspects of the proposal, as compared with the approved development, I am of the view that the proposal remains substantially the same as that originally approved.

Whilst there has been some change to the quantitative aspects of the proposal, quantitative changes alone do not disqualify a development from being substantially the same. These quantitative changes are responsive to the changes in the legislative and policy framework, since the development was originally approved.

In the context of the whole of the development (stage 1 and stage 2), the extent of change that is proposed is relatively modest, and will result in the whole of the development (stage 1 and stage 2) being substantially the same as that which was originally approved.

### Compliance of Proposal with the Relevant Planning Controls

We have undertaken a review of the revised proposals compliance with the relevant planning controls as set out in the table below.

**Table 1 – Assessment against Environmental Planning Instruments**

Instrument	Applicable	Comment/Complies?
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	Clause 4(6) of the SEPP outlines that the policy does not apply to environmentally sensitive land. The land is mapped as being subject to biodiversity constraints under the Pittwater LEP and is thus considered to be environmentally sensitive land.
Pittwater Local Environmental Plan 2014	Yes	The site is zoned RU2 – Rural Landscape under Pittwater LEP 2014. Seniors Housing development is not permissible on the site and constitutes a prohibited use, however the existing development consent as modified is saved by operation of section 4.70 of the EPA Act and is able to be modified.
Pittwater 21 Development Control Plan 2014	Yes	Addressed in Table 2 below

**Table 2 – Assessment against Pittwater Development Control Plan 2014**

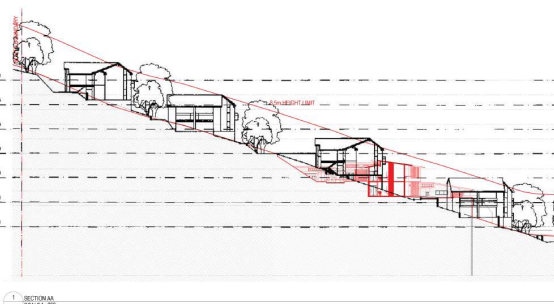
Control	Provision	Compliance
<i>Part A4 – Localities</i>		
A4.14 Warriewood Locality	<p><b>Desired Character:</b> The Warriewood locality will remain characterised by a mix of residential, retail, commercial, industrial, recreational, and educational land uses.</p> <p>Existing residential areas will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancies (detached) will be located on the valley floor and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities.</p> <p>Warriewood Square will meet the retail needs of the local and regional community as well as some smaller</p>	<p><b>Compliant</b></p> <p>The proposed development is in keeping with the future desired character of the area as it comprises low density residential development, having a maximum height of two storeys and being integrated with the landscape.</p> <p>The proposed development will be of contemporary design with façade modulation. The materials and colours will harmonise with the natural environment.</p> <p>The proposed development is sympathetic with the slope of the landform as it is sited along the slope and site disturbance is reduced when compared with the original development consent.</p>

Control	Provision	Compliance
	<p>neighbourhood centres.</p> <p>Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape and minimise site disturbance. Development will be designed to be safe from hazards.</p>	
<i>Part C1 – Design Criteria for Residential Development</i>		
<p>C1.1 Landscaping</p>	<p>All canopy trees, and a majority (more than 50%) of other vegetation, shall be locally native species. Species selection and area of landscape to be locally native species is determined by extent of existing native vegetation and presence of an Endangered Ecological Community. Note if the land is within an Endangered Ecological Community there will be a Development Control specifically covering the requirements for Landscaping in an Endangered Ecological Community.</p> <p>In all development a range of low-lying shrubs, medium-high shrubs and canopy trees shall be retained or provided to soften the built form.</p> <p>At least 2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be provided on site. Where there are existing canopy trees, but no natural tree regeneration, tree species are to be planted to ensure that the canopy is retained over the long-term. Where there are no canopy trees the trees to be planted are to be of sufficient scale to immediately add to the tree canopy of Pittwater and soften the built form.</p> <p>In bushfire prone areas, species shall be appropriate to the bushfire hazard.</p> <p>Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and retention of natural features such as rock outcrops.</p> <p>Canopy trees are to be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used.</p>	<p><b>Compliant</b> Additional conditions will relate to species selection outside of the Extent of Works as identified Tree Protection Plan, Sym Studio AVEO-SK-202, Issue A (30/09/19)</p> <p><b>Partially Compliant</b> The proposal as approved and as proposed to be modified involves the removal of canopy trees. The biodiversity assessment has reviewed this impact and replacement planting is proposed. Biodiversity offset credits are also proposed.</p> <p><b>Partially Compliant</b> The proposed modification reduces the impact on vegetation on the site due to the reduced footprint of stage 2. Replacement planting is proposed to soften the built form.</p> <p>Stage 2 is managed as an Asset Protection Zone together with the slope of the terrain; canopy trees have been clustered at various locations at a safe and practical distance from front and rear yards. Overall Canopy Tree Numbers for stage 2 = 33 Canopy Trees &gt;75L.</p> <p><b>Compliant</b> The proposed landscaping scheme has been reviewed by the bushfire consultant who has confirmed that the proposed species to be planted are compliant with Planning For Bushfire Protection.</p> <p><b>Compliant</b> The proposed modification reduces the impact on vegetation on the site due to the reduced footprint of stage 2. Replacement planting is proposed to soften the built form. Tree Protection Plan, Sym Studio AVEO-SK-202, Issue A (30/09/19)</p> <p><b>Partially Compliant</b> Canopy Trees are typically min. 3.0M from buildings considering counterlevered construction method (ie. Equivalent to pier and beam footing). Generally the large canopy trees are restricted to the streetscape as to avoid overhanging branches in close proximity to the buildings. Mid-story Rainforest Tree species such as Cabbage Palms, Tree Ferns are located as close as 2.0m to the</p>

Control	Provision	Compliance
		buildings (without overhanging branches) in some instances, located to form 'isolated canopy clumps'. The 'Rainforest Planting Palette' is in context with the surrounds and assists to create microclimates – retaining high moisture content, hence low flammability. Small Ornamental Trees are 'Plum' are located at each residential entry as a 'marker' to differentiate / identify entries to each dwelling.
	For development containing 3 or more dwellings, permanent seating is to be provided in the landscaped area.	<b>Capable of Compliance</b> Fixed Seating has the capacity to accommodate multiple seating locations including 1. At each Mail Kiosk 2. Viewing Deck on revised ramp layout, at half way point.
C1.2 Safety and Security	Building design should allow visitors who approach the front door to be seen without the need to open the door.	<b>Capable of compliance</b> The level of detail regarding door types has not been provided within the planning application, however, can form a condition of consent if required.
	Buildings and the public domain are to be designed to allow occupants to overlook public places (streets, parking, open space etc) and communal areas to maximise casual surveillance.	<b>Compliant</b> Whilst the proposal does not overlook or adjoin open space, it does provide passive surveillance for the internal street network and golf course.
	Development design and design of the public domain (including landscaping) is to minimise opportunities for concealment and avoid blind corners.	<b>Compliant</b> The proposed development has maintained clear sightlines through straight streets, with passive surveillance provided from the residential accommodation over all spaces.
	Adequate lighting must be provided according to the intended use of the development. Lighting must be designed and located so that it minimises the possibility of vandalism or damage. Security lighting must meet Australian Standard AS 4282-1997: <i>Control of the obtrusive effects of outdoor lighting</i> .	<b>Compliant</b> Adequate street lighting is to be provided throughout the development.
	Lighting is to be designed to minimise electricity consumption, and to minimise annoyance to neighbours.	<b>Compliant</b> Lighting will be installed using modern, electricity-saving materials. The location of the development on a slope will not impact neighbouring properties with regard to light spill.
	Design landscaping and materials around dwellings and buildings, so that when it is mature it does not unreasonably restrict views of pathways, parking and open space areas.	<b>Compliant</b> Landscaping is proposed around dwellings and buildings, whilst also keeping pathways, parking and open space areas clear.
	Building entrances are to be clearly visible from the street, easily identifiable and appropriately lit.	<b>Compliant</b> Building entrances are within close proximity to the street so that they are clearly visible and identifiable. The streetscape will be adequately lit in line with Australian Standards.
	Where provided, pedestrian access through a site and through the public domain is to be clearly defined, signposted, appropriately lit, visible and give direct access to building from parking and other areas likely to be used at night.	<b>Compliant</b> Pedestrian links are provided through the development site in addition to pathways and access from parking areas for each residence.
	The street number of the property is to be clearly identifiable.	<b>Compliant</b> Property numbers will be clearly identifiable.
Pedestrian access along the street frontage shall not be impeded by landscaping, street furniture or other restrictions.	<b>Compliant</b> Adequate pedestrian access will be provided throughout the site as confirmed by the accessibility consultant. It is noted that the proposed amendments include the incorporation of a lift between buildings 1AA and 5A to	

Control	Provision	Compliance
		facilitate equitable access between the upper and lower section of the loop road.
	Walkways and landscaping should be used to delineate site boundaries and direct visitors to the correct entrance and away from private areas.	<p><b>Compliant</b></p> <p>The majority of the proposed development is located away from site boundaries. Landscaping is proposed on the eastern boundary to direct visitors away from private areas.</p>
C1.4 Solar Access	The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.	<p><b>Variation Justified</b></p> <p>Refer to discussion below in relation to variations to solar access controls.</p>
	Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).	<p><b>Variation Justified</b></p> <p>Refer to discussion below in relation to variations to solar access controls noting that the proposed amendments improve solar access performance when compared to the modification as lodged and the court approved development.</p> <p>In respect of the dwellings previously approved, it is noted than many of these had a primary aspect to the south and that the living areas of these apartments and open space would not have received any sunlight. Examples of such apartments where it is unlikely that direct sunlight would be achieved to the living area and private open space include: 75, 78, 80, 85, 87, 90, 95, 98, 100, 102, 103, 108, 110, 112, 119, 121, 124, 128, 132 and 145. This equates to 27% (20 of 73 apartments) of the apartments approved in Stage 2 of the development.</p>
	Developments should maximise sunshine to clothes drying areas of the proposed development or adjoining dwellings.	<p><b>Compliant</b></p> <p>Clothes drying areas are proposed on the balcony of each dwelling, which is the most suitable place to maximise clothes drying opportunities. Adjoining dwellings are not impacted by shadow caused by the proposed development.</p>
	The proposal must demonstrate that appropriate solar access is achieved through the application of the Land and Environment Court planning principle for solar access.	<p><b>Compliant</b></p> <p>The Land and Environment Court planning principle for solar access has been set out in <i>The Benevolent Society v Waverley Council [2010] NSWLEC 1082</i>. In his ruling, Commissioner Moore SC set out the Court’s consolidated and revised planning principle on solar access in the following terms (in <i>italics</i>). An assessment for how the proposed development is consistent with or otherwise in relation to these principles is set out below the principle.</p> <p><i>Where guidelines dealing with the hours of sunlight on a window or open space leave open the question of what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person’s eye level, assessment of the adequacy of solar access should be undertaken with the following principles in mind, where relevant:</i></p> <ul style="list-style-type: none"> <li><i>The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.</i></li> </ul>

Control	Provision	Compliance
		<p>Whilst density is not an issue here, a more relevant consideration is the amount of sunshine able to be obtained. Due to the slope of the site, dense vegetation and also the southerly orientation, designing for solar access is much harder to achieve than a site without these design constraints.</p> <ul style="list-style-type: none"> <li> <p><i>The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.</i></p> <p>The proposed development will not result in the loss of sunlight for any adjacent dwelling.</p> <p>In respect of the approved development, it is noted that many of the apartments had a single aspect to the south and would not have achieved any solar access to the primary living area. Under the modified proposal, all of the proposed apartments in stage 2 will receive some natural sunlight to the primary living area and open space with 75% of units achieved 3 hours daylight to living area between 9am and 3pm on 21<sup>st</sup> of June and 87% of units achieved 2 hours daylight to private open spaces between 9am and 3pm on 21<sup>st</sup> of June.</p> </li> <li> <p><i>Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.</i></p> <p>The proposed development will not result in the loss of sunlight for any adjacent dwelling. The proposed design seeks to maximise solar access to the proposed apartments by way of high level windows and orientation and layout of the apartments.</p> </li> <li> <p><i>For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.</i></p> <p>With respect to the proposed development, the north facing windows of Units 1, 2,3,4,5, 6, 7, 8, 9,14, 15, 16, 17,18, 19 and 20 (66% of all dwellings) receive the required 3 hours of solar access under the provisions of the DCP. Where windows do not have a northerly aspect, these have been positioned and sized so as to maximise solar access.</p> </li> <li> <p><i>For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller</i></p> </li> </ul>

Control	Provision	Compliance
		<p><i>private open space, sunlight falling on seated residents may be adequate.</i></p> <p>No private open space of adjoining residences is impacted by the proposed development.</p> <ul style="list-style-type: none"> <li><i>Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.</i></li> </ul> <p>Adjoining residences are not overshadowed as a result of the proposal. These features have been modelled by JT and accounted for.</p> <ul style="list-style-type: none"> <li><i>In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.</i></li> </ul> <p>The subject locality is not considered to be undergoing significant change so that the likely future buildings are a matter for consideration.</p>
<p><b>C1.4</b> <b>Solar</b> <b>Access –</b> <b>Variations</b> <b>to controls</b></p>	<p>Where the following constraints apply to a site, reasonable solar access to the main private open space and to windows to the principal living area will be assessed on a merit basis:</p> <ul style="list-style-type: none"> <li>where the orientation or shape of a lot precludes northerly orientation (20° west to 30° east of north),</li> <li>where there is adverse slope or topography,</li> <li>where there is existing vegetation, obstruction, development or fences that overshadow, or</li> <li>where other controls have priority, e.g. heritage and landscaping considerations.</li> </ul> <p>Subject to a merit assessment, consent may be granted where a proposal does not comply with the standard, provided the resulting development is consistent with the general principles of the development control, the desired future character of the locality and any relevant State Environmental Planning Policy.</p>	<p><b>Non-compliance justified</b></p> <p>Adverse slope, topography and vegetation are all constraints that contribute to 40% of the proposed dwellings of the development not meeting solar access provisions under the DCP. The site is located on a steep slope that descends from the north to the south and is heavily vegetated. The orientation of the slope casts a long shadow at mid-winter over the proposed development. This slope is shown in the site section in the image below.</p>  <p>Non-compliance with the solar access control in the DCP is considered acceptable in the circumstances of the case for the following reasons:</p> <ul style="list-style-type: none"> <li>the non-compliance with solar access controls is primarily the result of slope, topography and vegetation and not due to the design of the proposed development;</li> <li>the apartments have been designed to capture north light where possible with 18 apartments receiving 3 or more hours of sunlight;</li> <li>18 of the proposed apartments will receive solar access to the primary living areas as opposed to the approved development where several apartments had a solar orientation to the south and would not have received any sunlight to the primary living area;</li> </ul>













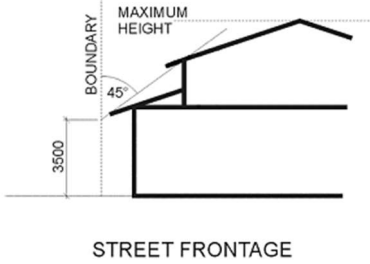
Control	Provision	Compliance
		<ul style="list-style-type: none"> <li>the ability of adjoining dwellings to achieve the required solar access is not compromised by the proposed development; and</li> <li>the proposed development is considered to be consistent with the desired future character of the local area as outlined previously in this table.</li> </ul>
C1.5 Visual Privacy	Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).	<p><b>Compliant</b></p> <p>The closest proposed building to the site boundary (Building 3A) is 7.5m from the adjoining Lot 2 DP 241431 which represents an increase to the setback distance when compared to the modification as originally lodged. The dwelling at this address is a further 9m away from the boundary line, producing a separation between buildings of 16.5m. Furthermore, existing and proposed vegetation separates the dwellings to provide adequate visual privacy.</p>
	Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.	<p><b>Compliant</b></p> <p>Privacy screens have been incorporated as required to elevated balconies. Additionally, the proposed amendments enhance the separation distance between buildings to minimise undue overlooking opportunities.</p>
	Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.	<p><b>Compliant</b></p> <p>Screening and offsetting of windows is proposed to prevent overlooking into adjacent dwellings. Additionally, the proposed amendments enhance the separation distance between buildings to minimise undue overlooking opportunities.</p>
	<p>Direct views of private open space or any habitable room window within 9m can be restricted (see diagram below) by:</p> <ul style="list-style-type: none"> <li>vegetation/landscaping</li> <li>a window sill height 1.7 metres above floor level, or</li> <li>offset windows</li> <li>fixed translucent glazing in any part below 1.7 metres above floor level, or</li> <li>solid translucent screens or perforated panels or trellises which have a maximum of 25% openings, and which are: <ul style="list-style-type: none"> <li>permanent and fixed;</li> <li>made of durable materials; and</li> <li>designed and painted or coloured to blend in with the dwelling.</li> </ul> </li> </ul>	<p><b>Compliant</b></p> <p>The closest proposed building to the site boundary (Building 3A) is 7.5m from the adjoining Lot 2 DP 241431. The dwelling at this address is a further 9m away from the boundary line, producing a separation between buildings of 16.5m. Furthermore, existing and proposed vegetation separates the dwellings to provide adequate visual privacy.</p> <p>Within the proposed development privacy is achieved by way of screening, high level windows and offsetting of windows.</p>
C1.6 Acoustic Privacy	Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and communal and private open space areas and the like.	<p><b>Compliant</b></p> <p>No significant noise sources are anticipated under the design of the proposed dwellings, as the development site is not located on a main road. The majority of parking areas are intended for the use of the dwelling.</p>
	Walls and/or ceilings of dwellings that are attached to another dwelling/s shall have a noise transmission rating in accordance with Part F(5) of the <i>Building Code of Australia</i> . (Walls and ceilings of attached dwellings must also comply with the fire rating provisions of the <i>Building Code of Australia</i> ).	<p><b>Capable of complying.</b></p> <p>The proposed development will be compliant with the relevant Australian Standards.</p>
	Noise generating plants including pool/spa motors, air conditioning units and the like shall not produce noise	<p><b>Compliant</b></p> <p>Whilst there is not considered to be any significant noise generating plants associated with the proposed</p>

Control	Provision	Compliance
	levels that exceed 5dBA above the background noise when measured from the nearest property boundary.	development, in any event, the distance between the development site and any property boundary is significant enough to ensure that there will be no noise impact on adjoining properties.
	Developments must comply in all respects with the <i>Protection of the Environment Operations Act 1997</i> , and other relevant legislation.	We understand that the proposal is capable of complying.
C1.7 <i>Private Open Space</i>	Private open space shall be provided as follows:- Minimum area of 15% of the floor area of the dwelling (not including the floor area of garages or internal laundries), with no dimension less than 2.5 metres and a grade no steeper than 1 in 10 (10%).	<b>Compliant</b> DCP controls stipulate that a minimum area of 15% of the floor area of the dwelling needs to be private open space. All of the proposed units meet this allocation –
	Dwellings are to be designed so that private open space is directly accessible from living areas enabling it to function as an extension of internal living areas.	<b>Compliant</b> Balconies and courtyard areas are proposed to be accessed directly off lounge areas.
	Ground floor units are to have a minimum area of private open space of 30sq.m and with no dimension less than 4 metres.	<b>Compliant</b>
	Private open space areas are to have good solar orientation (i.e. orientated to the north-east or north-west where possible). Where site or slope constrains this orientation, the private open space area must have access to some direct sunlight throughout the year (see Solar Access and Natural Light).	<b>Compliant</b> Whilst the slope, topography and vegetation of the site limits the solar access (refer to discussion in C1.4 above), the private open spaces have been located to maximise available solar access.
	Walled enclosure of private open space is prohibited. Such areas shall not be modified to be incorporated into the dwelling.	<b>Compliant</b> Private open spaces are not proposed to be walled, however, some screening is proposed for privacy reasons.
	Private open space areas should include provision of clothes drying facilities, screened from the street or a public place. Shared clothes drying facilities are acceptable.	<b>Compliant</b> Clothes drying facilities are provided in the private open spaces.
	Balconies are prohibited from overhanging public property.	<b>Compliant</b> No proposed balconies overhang public property.
C1.9 <i>Adaptable Housing and Accessibility</i>	The design of residential development shall meet the criteria of Australian Standard AS 4299:1995 Adaptable Housing as follows: <ul style="list-style-type: none"> <li>100% of Seniors Living developments need to constitute adaptable units as per the requirements of the <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i></li> </ul>	<b>Compliant</b> All dwellings are proposed to be adaptable in accordance with the provisions of AS4299:1995 Adaptable Housing. Refer to the Accessibility assessment prepared by Lindsay Perry Access.
	The development application must be accompanied by certification from an accredited access consultant confirming that the nominated adaptable dwellings are capable of being modified, when required by the occupant, to comply with <i>AS 4299:1995 Adaptable Housing</i> .	<b>Compliant</b> Refer to statement prepared by Lindsay Perry Access.
C1.10 <i>Building Facades</i>	Building facades to any public place including balconies and carpark entry points must not contain any stormwater, sewer, gas, electrical or communication service pipe or conduit that is visible from the public place.	<b>Compliant</b> No stormwater, sewer, gas, electrical or communication service pipe or conduit will form part of the façade, but rather will be incorporated into the built form.
	For multi dwelling housing, residential flat buildings or seniors housing and similar development that includes multiple dwellings with multiple letterboxes, where possible mailboxes should be orientated obliquely to the	<b>Compliant</b> No letterboxes are visible from a public road.

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	street to reduce visual clutter and the perception of multiple dwellings.	
C1.12 Waste and Recycling Facilities	All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan	<b>Compliant</b> A Waste Management Plan has been prepared by Aveo and details how the operation of waste and recycling facilities will meet Northern Beaches Council standards, including those identified by the Pittwater DCP.
C1.13 Pollution Control	Residential development must be designed, constructed, maintained and used in a proper and efficient manner to prevent air, water, noise and/or land pollution.	<b>Compliant</b> The seniors housing development has been designed with consideration to the natural environment and it will be constructed in a manner to prevent air, water, noise and/or land pollution.
	Developments must comply in all respects with the <i>Protection of the Environment Operations Act 1997</i> , and other relevant legislation.	The proposal can be designed to comply.
C1.15 Storage Facilities	A lockable storage area of minimum 8 cubic metres per dwelling shall be provided. This may form part of a carport or garage.	<b>Compliant</b> Storage areas have been provided within each residential garage. This storage space will be privately accessed and comprise a minimum of 8m <sup>3</sup> per unit.
C1.20 Undergrounding of Utility Services	All existing and proposed utility services within the site are to be placed underground or encapsulated within the building.	<b>Compliant</b> All utilities within the seniors housing site will be located underground.
	All existing and proposed utility services to the site, or adjacent to the site within a public road reserve, are to be placed underground for the total frontage of the site to any public road.	<b>Compliant</b> All utilities within the seniors housing site will be located underground.
C1.21 Seniors Housing	Seniors housing developed in accordance with the <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> , outside the R3 Medium Density Residential and B4 Mixed Use zones shall: <ul style="list-style-type: none"> <li>• Be in keeping with the development of the surrounding area in regard to bulk, building height, scale and character.</li> <li>• Not result in such an accumulation of Seniors Housing developments to create a dominant social type in the surrounding neighbourhood.</li> <li>• Not result in such an accumulation of Seniors Housing developments to create a dominant 'residential flat building' appearance in the neighbourhood.</li> </ul>	<b>Compliant</b> The seniors housing development has been designed with regard to the overall bulk, height, scale and character of the surrounding area. Additionally, the bulk and scale of the seniors housing is consistent with the nearby development and with the built form controls. The footprints of the proposed buildings are generally in accordance with those previously considered and approved under Consent 82/149 as modified.
C1.23 Eaves	Dwellings shall incorporate eaves on all elevations.	<b>Compliant</b> Eaves are provided.
	Eaves must be a minimum of 450mm in width, excluding any fascia/barge boards and gutters.	<b>Compliant</b> Eaves are provided in excess of 450mm.
	Street trees are to be planted to encourage the free passage of pedestrians.	<b>Compliant</b> The free passage of pedestrians is maintained with the proposed landscaping.
	Street trees should not interfere with existing powerlines.	<b>Compliant</b> Proposed landscaping does not impact existing powerlines.
	New tree plantings are to be a minimum 35 litre size with 1m x1m hole and backfilled with suitable planting medium.	<b>Compliant</b> The Landscape Package prepared by Sym Studio includes an indicative plant schedule for the proposed development, which includes information on the mature height of all species proposed. A range of trees are

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		proposed, including those in excess of 35L in size. Most notably, the proposed amendments result in an enhanced landscape scheme given the reduction in the development footprint which allows for additional opportunities for tree retention and new planting.
	Where appropriate, Council encourages the use of local endemic native species according to the list of local native species in Pittwater.	<b>Compliant</b> The Landscape Package prepared by Sym Studio includes an indicative plant schedule for the proposed development. This confirms that landscape planting has been kept to predominantly endemic native planting to compliment the natural setting. Exotic species will only feature within the central zone around the highly disturbed building footprints to add colour and interest.
	Grassed areas are to be turfed with Couch species (weed free) and even grade to a maximum 4% grade.	<b>Compliant</b> Grassed areas will propose species in compliance with the DCP.
<i>C1.25 Plant, Equipment Boxes and Lift Over-Run</i>	Where provided, plant and equipment boxes, air conditioning units and lift over-runs are to be integrated internally into the design fabric of the built form of the building. Council does not encourage air conditioning units on the roof of residential flat buildings and multi dwelling housing. The location of air conditioning units shall be indicated on development assessment plans for approval at the time of Development Application lodgement.	<b>Compliant</b> No plant equipment or otherwise is proposed on the roof of the dwellings.
	Locate and design all noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours.	<b>Compliant</b> Garbage collection areas are remote from the proposed dwellings and air conditioning is not contemplated at this stage. A condition of consent could be imposed to reflect this requirement.
<b>Part D14 – Warriewood Locality</b>		
<i>D14.1 Character as viewed from a public place</i>	Buildings which front the street or creekline corridors must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality. Blank street frontage facades without windows shall not be permitted.	<b>Compliant</b> The development has no direct frontage to Cabbage Tree Road and is therefore not able to be viewed from a public space. Nonetheless, the proposed development is of a height that is below the tree line and is sited to respond to the topographical constraints of the site. Furthermore, and in keeping with the DCP, the design of the development also achieves the objective of providing high quality buildings designed and built for the natural context and any natural hazards.
	The bulk and scale of buildings must be minimised.	<b>Compliant</b> The proposed development will be below the tree canopy and have appropriate bulk and scale commensurate with the locality and a reduction on what the site has consent to undertake.
	Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place. Parking structures should be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.	<b>Compliant</b> Whilst the development site cannot be viewed from a public place, parking structures are not a dominant feature of the development and are incorporated into the built form.
	Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation.	<b>Compliant</b> The Landscape Package prepared by Sym Studio includes an indicative plant schedule for the proposed development. This demonstrates that landscaping is

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		integrated with the building design to screen the visual impact of the built form.
	Television antennas, satellite dishes and other telecommunications equipment must be minimised and screened as far as possible from public view.	<b>Compliant</b> No telecommunications equipment is proposed.
	General service facilities must be located underground.	<b>Compliant</b> General service facilities are located underground.
	Attempts should be made to conceal all electrical cabling and the like. No conduit or sanitary plumbing is allowed on facades of buildings visible from a public space.	<b>Compliant</b> All electrical cabling has been concealed where possible.
<i>D14.2 Scenic Protection – General</i>	Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.	<b>Compliant</b> The built form has been designed to minimise the visual impact to the natural environment. Revegetation and a stepped design ensure that the visual impact has been minimised when viewed from key aspects, including existing residential properties to the north along Cabbage Tree road.
<i>D14.3 Building Colours and Materials</i>	<p>External colours and materials shall be dark and earthy tones as shown below:</p> <div style="display: flex; flex-wrap: wrap; justify-content: space-around;"> <div style="text-align: center;"> Black ✓</div> <div style="text-align: center;"> Dark grey ✓</div> <div style="text-align: center;"> Dark brown ✓</div> <div style="text-align: center;"> Mid grey ✓</div> <div style="text-align: center;"> Brown ✓</div> <div style="text-align: center;"> Dark blue ✓</div> </div> <p>White, light coloured, red or orange roofs and walls are not permitted:</p> <div style="display: flex; flex-wrap: wrap; justify-content: space-around;"> <div style="text-align: center;"> White ✗</div> <div style="text-align: center;"> Light blue ✗</div> <div style="text-align: center;"> Orange ✗</div> <div style="text-align: center;"> Light grey ✗</div> </div>	<b>Compliant</b> The proposal includes a palette of dark and earthy tones.
	Finishes are to be of a low reflectivity.	<b>Compliant</b> Finishes are of low reflectivity as confirmed by Jackson Teece.
<i>D14.11 Building envelope</i>	Buildings are to be sited within the following envelope:	<p>The proposed buildings have been designed such that they predominantly comply with the 8.5 metre height limit under the LEP.</p> <p>Minor variations are proposed and these are considered acceptable given that:</p> <ul style="list-style-type: none"> <li>The development as originally approved involved buildings of a similar or greater height which also would have exceeded 8.5m in height.</li> </ul>

Control	Provision	Compliance
	 <p style="text-align: center;">STREET FRONTAGE</p> <p>Planes are to be projected at 45 degrees from a height of 4.2 metres above ground level (existing) at the side boundaries to the maximum building height (refer to <i>Pittwater Local Environmental Plan 2014</i>).</p>	<ul style="list-style-type: none"> <li>• The variations arise because of the significant slope of the land;</li> <li>• The variations are minor;</li> <li>• The variations do not impact on the amenity of any adjoining dwelling either in the development or external to the development and are not readily visible external to the site due to the topography of the land.</li> </ul>
<p><i>dean</i></p>	<p>For land zoned RU2 Rural Landscape, the minimum landscaped area shall be 96% of the site area minus 400 square metres.</p>	<p><b>Non-compliance justified</b> The proposal involves a variation to the landscape control. However, given the large size of the site and also that the development footprint is reduced when compared to the original proposal, the variation is considered acceptable.</p>
	<p>The use of porous materials and finishes is encouraged where appropriate.</p>	<p><b>Compliant</b> A high degree of porous materials can be provided.</p>
<p><i>D14.14</i> <i>Construction,</i> <i>Retaining Walls,</i> <i>terracing</i> <i>and</i> <i>undercroft areas</i></p>	<p>Lightweight construction and pier and beam footings should be used in environmentally sensitive areas.</p>	<p><b>Compliant</b> Lightweight timber construction is proposed.</p>
	<p>Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials.</p>	<p><b>Not applicable</b> Retaining walls and terracing are not visible from a public space.</p>
	<p>In the provision of outdoor entertaining areas, preference is given to timber decks rather than cut/fill, retaining walls and/or terracing.</p>	<p>Noted</p>
	<p>Undercroft areas shall be limited to a maximum height of 3.5 metres. Adequate landscaping shall be provided to screen undercroft areas.</p>	<p><b>Compliant</b> Only one under croft area is now proposed. This is to be activated with the through site links and will be appropriately landscaped.</p>