

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2022/0059
----------------------------	--------------

<b>Responsible Officer:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 4 DP 76695, 1795 Pittwater Road MONA VALE NSW 2103 Lot 1 DP 219265, 1797 Pittwater Road MONA VALE NSW 2103 Lot 2 DP 219265, 38 Park Street MONA VALE NSW 2103 Lot 5 DP 77493, 1793 Pittwater Road MONA VALE NSW 2103
<b>Proposed Development:</b>	Modification of Development Consent DA2020/1179 granted for demolition works and construction of a Seniors Housing development with basement parking & associated landscaping
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Mona Vale 3 Pty Ltd Mona Vale 3 Pty Limited
<b>Applicant:</b>	Mona Vale 3 Pty Ltd

<b>Application Lodged:</b>	16/02/2022
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	28/02/2022 to 14/03/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	4.3 Height of buildings: 3.5%
<b>Recommendation:</b>	Approval

### EXECUTIVE SUMMARY

This application seeks consent for the modification of Development Consent No. DA2020/1179, which approved a Seniors Housing development, involving changes to the roof design to increase the height of the roof by between 200mm - 600mm. Other minor changes include the introduction of a Vergola and

privacy screens to the eastern balcony of Unit 20 and a change in the design of the Entry Canopy. The proposal will result in a maximum building height of 8.8m, which represents a 300mm (3.5%) breach of the 8.5m building height development standard pursuant to the Pittwater LEP 2014. The breaching roof elements are generally contained within the centre of the development.

There is no change to the footprint, setback or density of the approved development and the proposal maintains the landscape area outcomes. Despite the increase in the height of the development, the proposal maintains the two storey built form which is consistent with the scale and character of the locality. Furthermore, the increase in the height of the development will not result in any unreasonable amenity impacts in terms of overshadowing or view loss. The increase in the height and minor changes to the external treatment of the development and introduction of privacy screens will not result in any unreasonable visual impacts on the streetscape.

The Section 4.55(2) modification is being referred to the Development Determination Panel (DDP) as the original development application was determined by the DDP.

As a result of the public exhibition of the application, Council received no submissions.

This report concludes with a recommendation that the DDP should grant approval to the application.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposal seeks consent for the modification of consent DA200/1179 which approved a Seniors Housing development. In detail, the changes include:

- Changes to the roof design including an increase in the height as follows:
  - Lower Roof: 200- 400mm - increase RL17.00 to RL17.4 and RL17.2 to RL17.6
  - Middle Roof: 500 mm increase from RL17.75 to RL18.25
  - Upper Roof: 600mm increase from RL18.450 to RL19.05
  - Lift over-run: 500mm increase from RL18.7 to RL19.2

(\*Note: The measurements are taken from a cross comparison of Section A DA-10 Rev B dated 27.01.2021 prepared by Gartner Trovato in the approved drawing set and Section 1 DA04-003 Rev A prepared by KND Architects in the subject modification set of drawings)

- Unit 20 - Introduction of a Vergola and operable privacy screen to the eastern balcony
- Modification to the entry canopy design

## **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 - 4.3 Height of buildings

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.10 Building Facades

## SITE DESCRIPTION

<p><b>Property Description:</b></p>	<p>Lot 4 DP 76695 , 1795 Pittwater Road MONA VALE NSW 2103          Lot 1 DP 219265 , 1797 Pittwater Road MONA VALE NSW 2103          Lot 2 DP 219265 , 38 Park Street MONA VALE NSW 2103          Lot 5 DP 77493 , 1793 Pittwater Road MONA VALE NSW 2103</p>
<p><b>Detailed Site Description:</b></p>	<p>The subject site consists of four (4) allotment located on the south-western side of Pittwater Road. The site is irregular in shape with a primary frontage of 64.2m along Pittwater Road and a secondary frontage of 63.9m along Park Street. The sites are legally described as:</p> <p>Lot 2, DP 219265 - No. 39 Park Street, Mona Vale          Lot 1, DP 219265 - No. 1797 Pittwater Road, Mona Vale          Lot 4, DP 76695 -No 1795 Pittwater Road, Mona Vale          Lot 5, DP 77493, No. 1793 Pittwater Road, Mona Vale.</p> <p>The site has a depth of between 36.25m and 68.48m and a surveyed area of 3240.42m<sup>2</sup>. The site is located within the R2 Low Density Residential zone and single story dwellings are accommodated on each existing allotment. The site has a slope 5.8% that falls from the west to the east. The site contains several native and non-native canopy trees.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining development is characterised by weatherboard dwelling houses to the northwest and south-east. The immediately adjoining neighbour to the south is Pittwater Medical Practice and a Health Space clinic.</p> <p>Surrounding development to the west on the opposite side of Park Street includes The Sacred Heart Catholic Church</p>

and the Woolworths arcade connecting to the Mona Vale Town Centre further to the south-west. To the east, on the opposite side of Pittwater Road are a number of attached townhouse developments.

Map:



## SITE HISTORY

### PLM2020/0128

On 2 July 2020 a pre-lodgement meeting (PLM 2020/0128) was held in relation to the development of this site for seniors housing. The proposal sought to develop the site with a separate building containing six (6) dwellings and a shared driveway access to basement parking. The design as proposed at the PLM contained a height breach and substantial noncompliance with the basement setback to Pittwater Road. Based on the proposal as proffered, the scheme was not supported and required design amendments and the preference for site consolidation.

### DA2019/1072

On 9 July 2020, DA2019/1072 was approved by Council for demolition works and construction of a seniors housing development consisting of sixteen (16) units and thirty four (34) basement parking spaces at Nos. 1795 and 1797 Pittwater Road and No. 38 Park Street, Mona Vale.

### DA2019/1179

On 10 February 2021, DA2019/1179 was approved by Council (DDP) for demolition works and construction of a seniors housing development consisting of six (6) units and twelve (12) basement parking spaces connecting with the approved development (DA20191072) at Nos. 1793, 1795 and 1797 Pittwater Road and No. 38 Park Street, Mona Vale. The approval consolidated all 4 sites to link the additional six (6) dwellings to the twelve (12) approved under DA2019/1072.

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

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

The application has been assessed in accordance with the requirements of the Environmental Planning

and Assessment Act 1979 and the associated Regulations. In this regard:

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

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2020/1179, in full, with amendments detailed and assessed as follows:

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

Section 4.55 (2) - Other Modifications	Comments
<p>A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:</p>	
<p>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2020/1179 for the following reasons:</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The previously approved building height is increased by a maximum of 600mm. The applicant notes <i>the increase will enhance amenity and buildability, however, such increase does not give rise to any inappropriate or jarring streetscape, residential amenity, heritage conservation or environmental consequences.</i></p> <p>The applicants justification is generally supported. The siting (setbacks) and scale (density / FSR and depth of excavation) and landscape area outcomes of the approved development are maintained. The increase in height will not result in unreasonable impacts on neighbouring residential amenity by virtue of overshadowing or view loss.</p> <p>Minor changes are proposed to the unit 20</p>

<b>Section 4.55 (2) - Other Modifications</b>	<b>Comments</b>
	including the introduction of privacy screens and a vergola to the eastern balcony which will enhance the amenity of the unit and provide for enhanced privacy to the neighbouring medical centre.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2020/1179 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

### Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

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

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential

Section 4.15 'Matters for Consideration'	Comments
	purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested to clarify the increase in height.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This Clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and	(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.

Section 4.15 'Matters for Consideration'	Comments
economic impacts in the locality	<p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/02/2022 to 14/03/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS - Supported</b>
	Discussion of reason for referral
	This proposal has been referred to Heritage as the subject property is within the vicinity of two heritage items:  <b>"Glenroy" (house)</b> 1789 Pittwater Road, Mona Vale <b>St John's Anglican Church and gravestones</b> - 1624 Pittwater Road, Mona Vale
	Details of heritage items affected
	Details of the items as contained within the Pittwater inventory are as follows:



Internal Referral Body	Comments	
	<p><b>Glenroy</b>  <u>Statement of significance:</u>  Glenroy at 1789 Pittwater Road in Mona Vale has historic and aesthetic significance as a good example of a Federation House associated with the early inhabitants of Pittwater, the Johnson family. It is one of the earliest surviving houses in the locality. It features simplified elements of the Federation House, including the use of weatherboard, the shady veranda, the corrugated iron roof and the plain or sparingly decorated timber posts.</p> <p><u>Physical description:</u>  Glenroy features simplified elements of the Federation House, including the use of weatherboard, a shady veranda, corrugated iron roof and plain or sparingly decorated timber posts.</p> <p><b>St John's Anglican Church and gravestones</b>  <u>Statement of significance:</u>  St John's Anglican Church is historically significant as one of the earliest churches of Pittwater. It was built in 1871 and relocated to Bayview in 1888. It was demolished and rebuilt in 1907. It is socially significant due to its being one of the earliest Churches built by the Anglican community in the area.  Group of three relocated headstones typical of the late nineteenth century design, removed from lost grave sites on Mona Vale Headland. The group includes a memorial to a worker killed during the erection of Barrenjoey Lighthouse.</p> <p><u>Physical description:</u>  St Johns Anglican Church is a sandstone one-storey church located on Pittwater Road with a later modern addition. It is built in a simple style featuring Victorian Rustic Gothic characteristics, including: a steep-pitch roof, prominent gable with wide bargeboard, two-centred pointed arched opening.</p>	
	Other relevant heritage listings	
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No
	Australian Heritage Register	No
	NSW State Heritage Register	No
	National Trust of Aust (NSW) Register	

Internal Referral Body	Comments		
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	<b>Consideration of Application</b>		
	<p>The proposal seeks consent for modifications to an approved seniors living development. Changes include an increase in building heights, changes to materiality as well as the addition of vergolas and privacy screens. Glenroy is located to the east of the subject property across 1791 Pittwater Road while the church is located to the north east across Pittwater Road. Given the nature of the changes proposed, they are considered to not impact upon the heritage item or its significance.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No          Has a CMP been provided? No          Is a Heritage Impact Statement required? No          Has a Heritage Impact Statement been provided? No</p>		
Strategic and Place Planning (Urban Design)	<p><b>Supported</b></p> <p>The proposed modifications are generally acceptable for the following reasons:</p> <ul style="list-style-type: none"> <li>• The siting and scale of the development is generally the same as the approved scheme except for the minor increase in building height.</li> <li>• The proposal maintains the previously approved setbacks, Floor Space Ratio and landscaped area outcomes.</li> </ul> <p>As such, the modified proposal will have minor impact to adjoining development with regards to visual and audio privacy, solar access and view sharing.</p>		

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

### 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 original application (see Certificate No. 1134209M dated 14 September 2020).

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

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	48	45

A condition has been included in the original consent which is still relevant requiring compliance with the commitments indicated in the BASIX Certificate. Given the minor nature of the modification sought there is no need for an amendment to the certificate.

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

Cause 40(4) requires the height of the building not to exceed 8m, measured to the top of the ceiling.

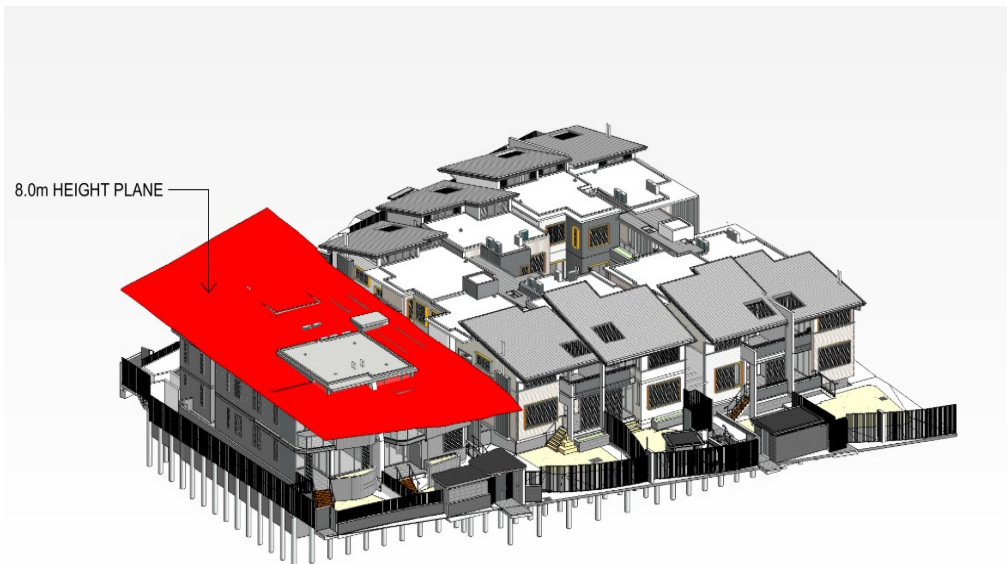
Note: SEPP (HSPD) defines height as:

*height in relation to a building, means the distance measured vertically from any point on the c*

Comment:

The proposal seeks a max 600mm increase in the height of the development. Despite the increase in the height the proposal remains compliant with the 8m max height limit as height is measured from the top of the ceiling under SEPP (HSPD). Refer to height diagram below which shows the central roof

element and lift shaft that project beyond the 8m height blanket.



*8m height plane (source KND architects)*

Notwithstanding an assessment of the development remains to be consistent with the character of the locality as the breaching element are set back from the edge of the building and the built form will continue to read as a two storey building within a landscape setting. The breaching element will not detract from the design quality of the development in the streetscape or result in unreasonable impacts on residential amenity in terms of solar access, which remains to be compliant, or view sharing.

The proposal remains to be consistent with all other SEPP (HSPD) controls and the detailed assessment of such controls contained with the original DA assessment report remain to be valid. Refer also to detailed discussion under Clause 4.3 of the Pittwater LEP below.

## **SEPP (Infrastructure) 2007**

### Ausgrid

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

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

### Comment:

The proposal was referred to Ausgrid. No response was received at the time of writing this report and it is therefore assumed that the conditions recommended by Ausgrid to the original DA are still relevant.

### Roads and Maritime Service (RMS)

**Clause 101 - Development with frontage to classified road** states:

*The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
  - (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment:

The original application was referred to TfNSW who offered no objections to the proposal subject to conditions. The conditions remain valid.

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.0m	8.8m (300mm increase above 8.5m)	3.5%	No

Compliance Assessment

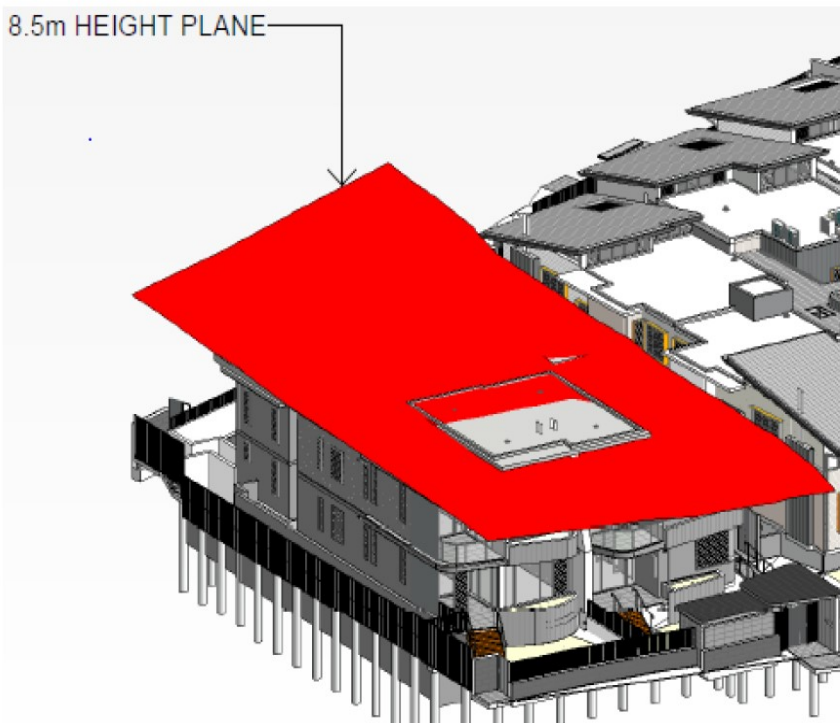
Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	N/A
5.10 Heritage conservation	Yes
5.21 Flood planning	Yes

Clause	Compliance with Requirements
7.2 Earthworks	Yes
7.4 Floodplain risk management	Yes
7.10 Essential services	Yes

## Detailed Assessment

### 4.3 Height of buildings

As discussed above, the proposal, as modified, has a maximum building height of 8.8 metres representing a variation of 300mm or 3.5% with the LEP building height standard. The modified roof design represents a small breach in the mid-section of the roof as per the diagram below.



*8.5m height envelope (source KND architects)*

Whilst the Clause 4.6 development standard variation mechanism does not apply to an application seeking to modify a consent the acceptability of the increase in building height has been assessed against the objectives of the standard as follows:

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

#### Comment:

The modifications result in a minor increase in overall building height the height and scale of the development. Despite this the proposal will remain consistent with the desired character of the locality being 2 storey building forms within a landscaped setting.

The breaching elements is setback from the edge of the building (middle roof element) and will not impact on the design quality of the development or its streetscape. The development by virtue of its height and scale will remain consistent with the desired character of the locality being an outcome

accepted in the approval of the original scheme.

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

Comment:

As noted above, despite the minor increase in overall building height the height and scale of the development it will remain consistent with the desired character of the locality being 2 storey building forms within a landscaped setting.

The modified development maintaining the previously approved spatial relationship to adjoining development. The proposed development, notwithstanding the building height breaching elements, will remain complimentary and compatible with the height and scale of surrounding and nearby development

*(c) to minimise any overshadowing of neighbouring properties*

Comment:

The application is supported with shadow diagrams that demonstrates that the modified shadowing impacts maintain compliant levels of solar access to surrounding residential development.

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

Comment:

The 200-600mm increase in the height of the roof will have no discernible adverse impacts on view sharing.

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

Comment:

The building height breaching elements are not a consequence of the desire to further alter the natural topography of the site.

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

Comment:

The minor increase in overall building height will not compromise the heritage conservation outcomes afforded through approval of the original scheme.

**Pittwater 21 Development Control Plan**

Built Form Controls

<b>Built Form Control</b>	<b>Requirement</b>	<b>Approved</b>	<b>Proposed</b>	<b>Complies</b>
Front building line	10m Pittwater Road	8m - 8.2m to building wall 6.8m-7m to balconies Nil to bin store	unaltered	No

Rear building line	6.5m Park Street	6.5m - 7.5m to building line 4m to balconies	unaltered	Yes No
Side building line	2.5m southern boundary	3m	unaltered	Yes
	1m northern boundary	Ni	unaltered	No
Building envelope	3.5m north-west	Outside envelope 1.4m in height x a length of 6.6m	unaltered	No
	3.5m south-east	Within envelope	unaltered	Yes
Landscaped area	50%	41 %	unaltered	No

There is no change to the footprint / setbacks of the approved development. As such, the assessment of the built form controls referenced above as detailed in the original assessment report are still relevant.

#### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
A1.7 Considerations before consent is granted	Yes	Yes
A4.9 Mona Vale Locality	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.6 On-Street Parking Facilities	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.9 Adaptable Housing and Accessibility	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
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
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	Yes	Yes
D9.2 Scenic protection - General	Yes	Yes
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	No	Yes
D9.7 Side and rear building line	Yes	Yes
D9.9 Building envelope	No	Yes
D9.10 Landscaped Area - General	No	Yes
D9.12 Fences - General	Yes	Yes
D9.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

### Detailed Assessment

#### **C1.5 Visual Privacy**

The proposal seeks to introduce an operable privacy screen to the eastern and western edge of the balcony of unit 20. The original approval did not include any screens to the balcony. (Note: the original approval references unit 20 as unit 4).

Unit 20 (previously No. 4) is located on level 1 and faces Pittwater Road to the east. The modification provides enhanced privacy protection for the future residents and neighbors as compared to the approved scheme. The operable design of the screen is assessed as acceptable as the balcony faces Pittwater Road (a public road) to the east and overlooks the roof of the neighbouring single storey medical practice to the west.

#### **C1.10 Building Facades**

The minor changes to the building facades as a result of the introduction of screens to the balcony of unit 20 and the minor change to the roof design will not adversely impact the aesthetic quality of the design and its presentation in the street.

The vergola to the balcony of unit 20 offers enhanced weather protection to the occupiers of the unit and will not be readily visible from the streetscape.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2021**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

There is no change to the footprint, setback or density of the approved development.

The 200mm-600mm increase in the height of the building will result in a 300mm (3.5%) breach of the LEP height standard. Despite the breach of the height limit, the proposal will not result in any unreasonable visual amenity impacts on the streetscape and will maintain the two storey built form which is in character with the locality. In addition, the proposal will not result in any unreasonable impacts on neighbouring amenity by way of overshadowing or view loss.

The introduction of privacy screens to the eastern balcony of Unit 20 will enhance the amenity of the

unit and offer greater privacy protection to the neighbouring medical centre.

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

**RECOMMENDATION**

THAT Council as the consent authority grant approval to Modification Application No. Mod2022/0059 for Modification of Development Consent DA2020/1179 granted for demolition works and construction of a Seniors Housing development with basement parking & associated landscaping on land at Lot 4 DP 76695,1795 Pittwater Road, MONA VALE, Lot 1 DP 219265,1797 Pittwater Road, MONA VALE, Lot 2 DP 219265,38 Park Street, MONA VALE, Lot 5 DP 77493,1793 Pittwater Road, MONA VALE, subject to the conditions printed below:

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

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

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA01-101 Rev A Overall Plan - Roof Plan	21.12.2021	KND Architects
DA02-001 Rev A Lower Roof Plan - SP2	21.12.2021	KND Architects
DA202-002 Rev A Roof Plan - SP2	21.12.2021	KND Architects
DA03-001 Rev A East Elevation - SP2	21.12.2021	KND Architects
DA03-002 Rev A South Elevation - SP2	21.12.2021	KND Architects
DA03-003 Rev A North Elevation - SP2	21.12.2021	KND Architects
DA03-004 Rev A West Elevation - SP2	21.12.2021	KND Architects
DA04-001 Rev A Section A	21.12.2021	KND Architects
DA04-002 Rev A Section B	21.12.2021	KND Architects
DA04-003 Rev A Section 1	21.12.2021	KND Architects

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