

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/1260
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Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot 33 DP 8394, 29 North Avalon Road AVALON BEACH NSW 2107 Lot 32 DP 8394, 27 North Avalon Road AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of a Seniors Housing development comprising 10 self contained dwellings and site consolidation
Zoning:	R2 Low Density Residential R2 Low Density Residential
Development Permissible:	Yes, under SEPP Housing for Seniors or People with a Disability (HSPD) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	Armada Avalon Pty Ltd
Applicant:	Armada Avalon Pty Ltd

Application Lodged:	11/11/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	09/01/2020 to 28/01/2020
Advertised:	07/12/2019
Submissions Received:	84
Clause 4.6 Variation:	4.3 Height of buildings: SEPP (rear 25%)%
Recommendation:	Refusal

Estimated Cost of Works:	\$ 3,574,441.00
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EXECUTIVE SUMMARY

Development Application DA2019/1260 has been made by Armada Avalon Pty Ltd for demolition works and construction of a two storey development divided into four buildings, containing ten (10) self-contained dwellings pursuant to State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004. The development includes a centralised hard stand parking area for fifteen (15) vehicles and an elevated walkway which connects the four (4) building elements at first floor level. The

works also include removal of fifty-one (51) trees and site consolidation.

On 24 December 2019, the Applicant commenced Class 1 proceedings in the NSW Land and Environment Court, appealing Council's deemed refusal of the development application.

Public exhibition of the development resulted in eighty-four (84) submissions objecting to the proposal and raising concerns relating to amenity (noise and privacy), traffic and parking, character, density, tree removal and compliance with SEPP HSPD.

The subject site is zoned R2 Low Density Residential under the *Pittwater Local Environmental Plan 2014 (PLEP 2014)*. Development for the purposes of seniors housing is prohibited with the zone. The application has been lodged pursuant to SEPP HSPD.

The assessment of the application has found that the proposal in its current form cannot be supported as it fails to satisfy the requirements of both SEPP HSPD and P21 DCP including building height, side setback, landscaped open space and character.

Accordingly, the application is referred to the NBLPP with a recommendation for refusal and for the Panel to endorse the recommendation and for Council to defend the appeal in the NSW Land and Environment Court.

PROPOSED DEVELOPMENT IN DETAIL

The development seeks consent for the following:

Demolition works and construction of a seniors housing development, comprising ten (10) self-contained dwellings for seniors or people with a disability.

The building is designed with four (4), two storey detached buildings centrally connected by an elevated footbridge.

Each building contains a hipped or pitched roof.

Ground Floor Level

- Dwellings 1 and 2 provide two (2) bedrooms
- Dwellings 3, 4 and 5 provide three (3) bedrooms

First Floor Level

- Dwellings 6, 7 and 8 provide two (2) bedrooms
- Dwellings 9 and 10 provide three (3) bedrooms
- Elevated footbridge connecting Dwellings 9 and 10 with Dwellings 6, 7 and 8 and a lift access.
- Site consolidation
 - Fifteen (15) at-grade parking spaces
 - One single vehicle access off North Avalon Road

- Removal of fifty-one (51) trees, eleven (11) from within the road reserve

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 - Zone R2 Low Density Residential

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A4.1 Avalon Beach Locality

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

Pittwater 21 Development Control Plan - C1.1 Landscaping

Pittwater 21 Development Control Plan - C1.5 Visual Privacy

Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy

Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities

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

Pittwater 21 Development Control Plan - C1.21 Seniors Housing

Pittwater 21 Development Control Plan - C4.4 Subdivision - Public Roads, Footpath and Streetscape

Pittwater 21 Development Control Plan - D1.15 Fences - General

SITE DESCRIPTION

Property Description:	Lot 33 DP 8394 , 29 North Avalon Road AVALON BEACH NSW 2107 Lot 32 DP 8394 , 27 North Avalon Road AVALON BEACH NSW 2107
Detailed Site Description:	The site comprises two lots and is legally identified as follows: (a) Lot 32 DP 8394 (known as No. 27 North Avalon Road)

(b) Lot 33 DP 8394 (known as No. 29 North Avalon Road)

The site currently contains two single detached dwelling houses with an attached single garage at No. 27 and an attached carport at No. 29.

The site contains a drainage easement which extends from the north-east to the south-west side of the site and runs behind the dwelling at No. 27 and in front of the dwelling at No. 29.

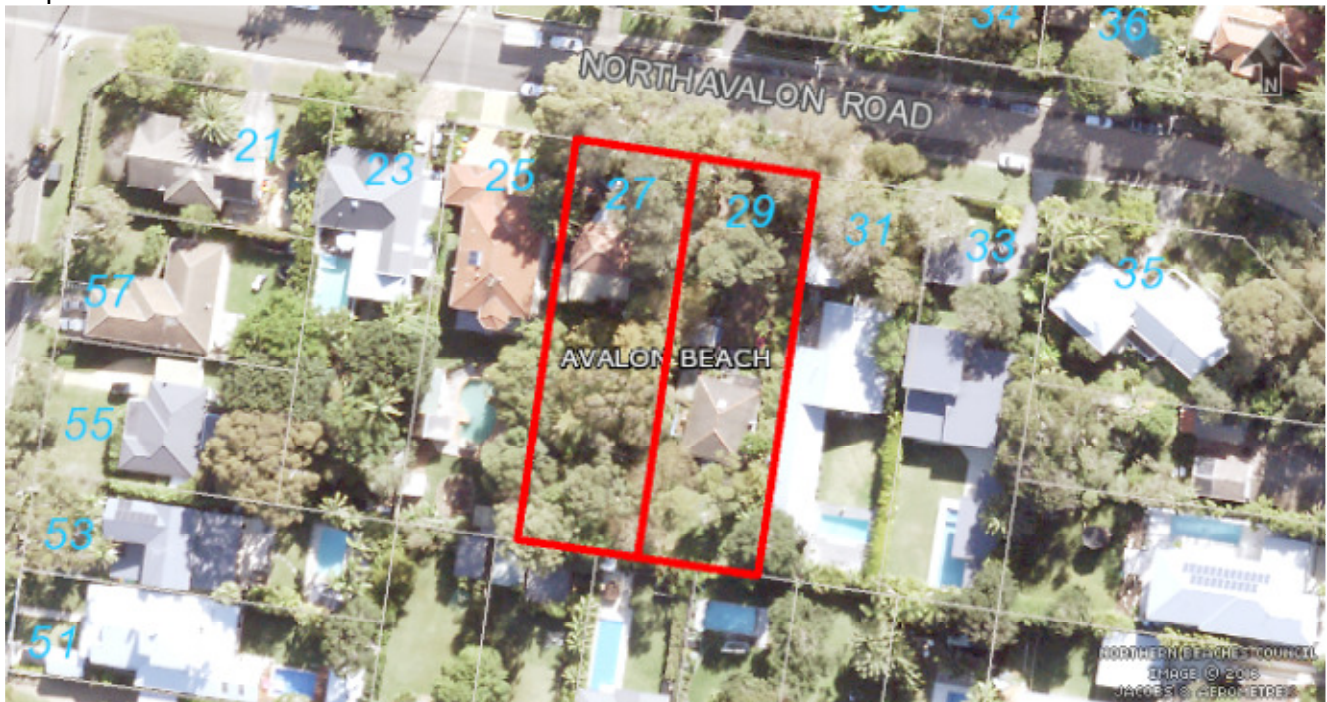
The site is identified as Low Risk Flood Prone Land. The site is not Bushfire Prone Land.

The site is rectangular in shape with a combined frontage of 36.58m along North Avalon Road and a depth of 60.96m. The site has a surveyed area of 2227m².

The site has a fall from the rear south-north to the front of the site of approximately 0.9m (1.5%) and from east to west of approximately 0.8m (2.29%).

Surrounding development consists of low density single residential dwellings all located on large lots, sited 'amongst the trees' with generous setbacks and open rear yards.

Map:



SITE HISTORY

Pre-Lodgement Meeting (PLM2019/0021)

A pre-lodgement meeting was held on 26 February 2019 to discuss a development for seniors housing on the subject site. Issues raised in the notes from the meeting identify issues relating to streetscape

character, building setbacks, building bulk, privacy and tree removal. The concluding comments from the meeting state:

"Higher density development where permitted should maintain a "good fit" within the context of surrounding land to prevent outcomes that are "jarring" against the existing urban amenity and local residential character that popularises the surrounding streets / precinct."

Development Application DA2019/1260

Development Application No. DA2019/1260 for demolition works and construction of a seniors housing development comprising ten (10 self-contained dwellings for seniors or people with a disability) was lodged with Council on 25 November 2019. The application reflects the design discussed at the pre-lodgement meeting.

Class 1 Proceedings - NSW Land and Environment Court

On 24 December 2019, Class 1 proceedings were commenced in the NSW Land and Environment Court appealing Council's deemed refusal of the application.

There is no further relevant history for the site.

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 (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 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&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&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>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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 may be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&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&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been 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 been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 DCP section of this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable.</p> <p>(ii) Social Impact The development will provide seniors housing in the locality, therefore the development ensures that the housing stock caters for a broad cross section of the community. In terms of the provision of housing, the proposed development will not have a detrimental social impact on the locality.</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 not considered to be suitable for the development given its location within an area which renders the development to be inconsistent with its desired future character.
Section 4.15 (1) (d) – any	The public submissions received in response to the proposed

Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	development are addressed under "Notification & Submissions Received" within this report. Several issues were raised which warrant the refusal of the application.
Section 4.15 (1) (e) – the public interest	<p>The provision of Seniors housing in the locality is generally in the broader public interest.</p> <p>However, the controls contained within the <i>Pittwater LEP</i> and <i>P21 DCP</i> provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the desired future character envisage for the locality.</p> <p>This assessment has found the proposal to be contrary to the relevant requirement(s) in these local planning controls and will result in a development which will create an 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.</p>

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 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 84 submission/s from:

Name:	Address:
Mr Gary Wynne Denman Mrs Deborah Elizabeth Denman	8 Urara Road AVALON BEACH NSW 2107
Mr Bruce Anthony Chard Mrs Cathy Lynne Chard	34 North Avalon Road AVALON BEACH NSW 2107
Mr Ian Alexander Fitzhardinge Sheppard	30 North Avalon Road AVALON BEACH NSW 2107
Mr Hugh Mark Spear	50 Hudson Parade AVALON BEACH NSW 2107
Raia Pty Ltd	5/123 Kurraba Road KURRABA POINT NSW 2089
Mrs Anne-Louise Clacher	26 North Avalon Road AVALON BEACH NSW 2107
Withheld	AVALON BEACH NSW 2107

Name:	Address:
Withheld	
Ms Jacqueline Robyn Brown	55 Tasman Road AVALON BEACH NSW 2107
Bree Turner	64 a Marine Parade AVALON BEACH NSW 2107
Mrs Nancy Lorraine Krause	64 Marine Parade AVALON BEACH NSW 2107
Mr Mark Edmund Turner	10 Watkins Road AVALON BEACH NSW 2107
Janette Bunch	Address Unknown
Mrs Kathrine Foliot Whalan	12 Urara Road AVALON BEACH NSW 2107
Mr Barry Norman Hanstrum	31 North Avalon Road AVALON BEACH NSW 2107
Mr Rohan Baker Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Roger Philip Sayers	104 Binburra Avenue AVALON BEACH NSW 2107
Mrs Marita Ann Macrae	24 Catalina Crescent AVALON BEACH NSW 2107
Mr Andrew Gardiner Reynolds Pauline Molnar	68 Marine Parade AVALON BEACH NSW 2107
Mr Peter John McGowan	10 Urara Road AVALON BEACH NSW 2107
James Nicol	Address Unknown
CHOEDON COVENTRY	Address Unknown
Mr Tom Coventry	8 Marine Parade AVALON BEACH NSW 2107
Ms Tina Henry	30 Bareena Road AVALON BEACH NSW 2107
Ms Dale Christine Kentwell	22 Coonanga Road AVALON BEACH NSW 2107
J Bulgin	34 North Avalon Road AVALON BEACH NSW 2107
Mr Darren Leonard Bogg Mrs Renee Karen Bogg	26 Catalina Crescent AVALON BEACH NSW 2107
Erin Broady Menios Constantinou	16 Catalina Crescent AVALON BEACH NSW 2107
Ms Leonie Desree Leonard	636 Barrenjoey Road AVALON BEACH NSW 2107
Mr Craig Douglas Berry Mrs Sharyn Dee Berry	23 North Avalon Road AVALON BEACH NSW 2107
David Griffiths	Address Unknown
Mrs Kara Jodie Egerton	36 North Avalon Road AVALON BEACH NSW 2107
Mr Mark John Head	2/10 North Avalon Road AVALON BEACH NSW 2107
Mrs Jessica Sharon Shaw	44 Marine Parade AVALON BEACH NSW 2107
Mr Anthony Craig Boaden	34 Trappers Way AVALON BEACH NSW 2107
Mrs Judith Ann Thomas	18 / 36 - 38 Old Barrenjoey Road AVALON BEACH NSW 2107
Brad Goulding	27 Bareena Road AVALON BEACH NSW 2107
Mr Grahame Patrick Byrnes	5 A North Avalon Road AVALON BEACH NSW 2107
Ms Karin Turner	26 Marine Parade AVALON BEACH NSW 2107
Mrs Helen Olivia Richards	248 Hudson Parade CLAREVILLE NSW 2107
Mr Clifford John Barry	20 Marine Parade AVALON BEACH NSW 2107
Mrs Robin Boler	80 Binburra Avenue AVALON BEACH NSW 2107
Mr Hubert Reinhold Habicht	1 B Urara Road AVALON BEACH NSW 2107

Name:	Address:
Mr Laurie Bombardiere	PO Box 296 AVALON BEACH NSW 2107
Mr Darren Patrick Fishburn	52 Binburra Avenue AVALON BEACH NSW 2107
Mr Phillip Gregory Jones Mrs Annabel Selby-Jones	48 Marine Parade AVALON BEACH NSW 2107
Mr A Padovan	18 Connanga Road AVALON BEACH NSW 2107
Avalon Preservation Trust Incorporated as Avalon Preservation Association	24 Catalina Crescent AVALON BEACH NSW 2107
Mr Roger Barton Perkins Mrs Joan Elizabeth Perkins	95 Marine Parade AVALON BEACH NSW 2107
Mrs Caroline Ann James	44 Binburra Avenue AVALON BEACH NSW 2107
Jacqui Turner	6 Joseph Street AVALON BEACH NSW 2107
Mr Sam Nugent Richmond Mr Hannah Richmond	47 Tasman Road AVALON BEACH NSW 2107
Ms Jennifer Nathalie Cuthbertson Natalie Cuthbertson	4 Coonanga Road AVALON BEACH NSW 2107
Shane Longmore	C/- Alpha Chemicals Pty Ltd 18 Inman Road CROMER NSW 2099
Mr Frank Raymond Zonneveldt	48 Binburra Avenue AVALON BEACH NSW 2107
Mrs Milga Mary Rose	13 Urara Road AVALON BEACH NSW 2107
Mr David George Beausire Barnard Marieta Barnard	36 Marine Parade AVALON BEACH NSW 2107
Mr Duncan John Hyde Mrs Lyndee Gai Hyde	33 North Avalon Road AVALON BEACH NSW 2107
Emma Neville	89 Marine Parade AVALON BEACH NSW 2107
Mrs Jeanette Eleanor Padilla	21 Catalina Crescent AVALON BEACH NSW 2107
Nina Louise Gow	PO Box 22 AVALON BEACH NSW 2107
Michele Ann Robertson	134 Central Road AVALON BEACH NSW 2107
Ms Anne O'Malley Jones	21 Harley Road AVALON BEACH NSW 2107
Mr Phillip Mark Deer	23 Watkins Road AVALON BEACH NSW 2107
Mr David Allan Watson	7 / 82 Soldiers Avenue FRESHWATER NSW 2096
Katherine Beaumont	PO Box 808 NEWPORT BEACH NSW 2106
Frances Graham	11 North Avalon Road AVALON BEACH NSW 2107
Mr Ross Gary Woodward	12 Watkins Road AVALON BEACH NSW 2107
Ms Erin Amanda Hopkins	28 Tasman Road AVALON BEACH NSW 2107
Mr Raymond John Martin	16 Marine Parade AVALON BEACH NSW 2107
Mr Michael Ian Lapin	1 Harley Road AVALON BEACH NSW 2107
Ms Linda Nhung Bendixsen	25 Bareena Road AVALON BEACH NSW 2107
Withheld Withheld	AVALON BEACH NSW 2107
Mrs Danielle Edith Dubois	46 Park Avenue AVALON BEACH NSW 2107

Name:	Address:
Mr Sven Shimell	6 Bareena Road AVALON BEACH NSW 2107
Ross King	85 Marine Parade AVALON BEACH NSW 2107
Mrs Julie Robyn King	12 Ascot Road KENTHURST NSW 2156
Ms Sandra Kay Tyson	27 Catalina Crescent AVALON BEACH NSW 2107
Rebecca Conroy	1 North Avalon Road AVALON BEACH NSW 2107
Mr Garry Farrell	17 Marine Parade AVALON BEACH NSW 2107
Susan Farrell	71 Marine Parade AVALON BEACH NSW 2107
Mr John Benedict Norsa Ms Maryline Norsa	1 Emerald Street NARRABEEN NSW 2101
Mrs Natalie Sheryl Ball	2 North Avalon Road AVALON BEACH NSW 2107
Dr Penelope Rose Lake	22 Tasman Road AVALON BEACH NSW 2107
Mr Stephen John Riley	234 Hudson Parade CLAREVILLE NSW 2107

The development application was notified and advertised for a period of 42 days from 3 December 2019 to 24 January 2020 in accordance with the Community Participation Plan. The application was required to be renotified for a further 21 days from 7 January 2020 to 28 January 2020 due to an administrative error with the first notification.

The following issues were raised in the submissions received:

- Traffic and parking
- Tree removal

- Site coverage and overdevelopment
- Character and Streetscape
- Clustering of medium density seniors housing
- Proximity of development to relevant services
- Building Height non-compliance
- Impact of population increase from 10 additional units
- Increased load on sewage mains and stormwater

The matters raised within the submissions are addressed as follows:

- **Traffic and Parking**
Increased traffic congestion and street parking

The intersection of North Avalon Road and Barrenjoey Road is already overloaded with cars at peak periods, as evidenced by the long queues of vehicles extending back along

North Avalon Road as far as Tasman Road. This build up in traffic is mainly caused by drop offs at Barrenjoey High School, the Montessori School and two day care centres in North Avalon, converging with local traffic heading into Avalon Village along Barrenjoey Road. The regional road infrastructure is also beyond capacity as evidenced by the traffic jam experienced every morning from 8.30am to 9.30am between Whale Beach Road and the Bilgola Bends. The roads are at capacity and struggling to cope with the existing residential traffic, not only during the morning peak but at other times such as peak weekend and holiday season traffic.

Comment: The proposed traffic movements for the development have been assessed as being within the capacity of the local road network. Notwithstanding, local issues raised in relation to intersection capacities at peak periods is a matter that requires further investigation.

- **Tree Removal**

Impact on flora and fauna habitats

Removal of over 50 trees. No attempt to retain existing trees consistent with the Locality statement and the requirements of Clause 33 (f) of SEPP HSPD.

Comment:

Council's Landscape Architect has reviewed the proposed tree removal in detail and has raised significant concerns with the extent of trees to be removed. The removal of over fifty (50) trees from the site is considered to result in a detrimental loss of canopy trees and vegetation synonymous with Avalon Beach Locality. The removal of vegetation to accommodate such an excessive footprint on the site is not supported. This issue forms a reason for refusal of the application.

- **Site Coverage and overdevelopment**

Comment:

The proposed development seeks consent for a development that covers 60% of the site in a area where a maximum of 50% is the maximum site coverage. The site layout contains issues with the parking design, rear building setback and driveway access which indicates the proposal is an overdevelopment of the site.

- **Character of the area and streetscape**

Abundance of trees, traditional beach style houses set back from the street, spaciousness and dwellings nestled comfortably into the landscape.

Building line in front of the average dwelling setback (excluding carports)

Comment:

The assessment of this development has demonstrated that the proposal is an overdevelopment of the site, notwithstanding the increased allowances permitted pursuant to SEPP (HSPD). The extensive removal of characteristic tree canopy and vegetation from the site to accommodate a large development footprint which covers 60% of the site is not consistent or empathetic to the established character of development in this location. The surrounding streets are predominantly single dwellings within a generous landscaped curtilage.

The proposed development while incorporating building elements visible in the surrounding area, presents as a medium density development which is inconsistent with the existing character and with the desired character for the locality, which clearly states where this form of development should be located: " *medium density housing will be located within and around commercial centres,*

public transport and community facilities". The inconsistency of the development in addressing the character of the location is reflected in the reasons for refusal.

- **Clustering of medium density seniors housing in the area**

This development will be the third seniors housing development within 300m (No. 7 North Avalon Road and No.4-6 Binburra Avenue) conflicts with the intention of the Avalon Locality Statement that medium density housing be located around the commercial centres, public transport and facilities.

Comment:

While there are other examples of seniors housing in close proximity, these other developments are located much closer to Barrenjoey Road. The subject site is not considered a suitable location given the concerns with suitable access, tree removal and character.

- **Proximity to relevant essential services**

To access medical services by public transport, residents need to walk almost 400 metres to the bus stop on Barrenjoey Road, alight the bus at the Avalon Parade traffic lights, then walk another 400 metres to the main medical centre located at the western end of Avalon Village at 54 Avalon Parade. These distances are at the outer limit of the travel distances, as specified by SEPP HSPD Clause 26. The journey to the medical centre in Avalon Village and back to the site is a significant excursion for elderly people and people with a disability, requiring around 1.6 kilometres travel by foot, wheelchair or motorized cart, in addition to the bus trip. For the return journey, the bus stop on the western side of Barrenjoey Road is located 435 metres from the entrance pathway on the development site, more than the upper limit of 400 m as specified in the SEPP HSPD.

SEPP HSPD Clause 26 does not allow for any gradient along the pathway to exceed 1:8. The 'Assessment of Distance and Path of Travel to the Bus Stops' report in the DA documents identifies 3 sections of the path to the bus stops which are non-compliant with this Clause. The kerb ramp on the western side of Barrenjoey Road has a section steeper than the 1:8 gradient, as does the kerb ramp on the corner of North Avalon Road and Catalina Crescent. The transition to the footpaths either side of Tasman Road are also non-compliant and need to be remedied as part of the proposed works to upgrade the footpath from the site.

Comment:

The issues identified by the public submissions with the provision of suitable access are concurred with in this assessment. SEPP (HSPD) states: "(a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like,"

As detailed elsewhere in this report, the access from the proposal to Barrenjoey Road is not considered acceptable. The development is located at the very limits of the required distance to the bus stops, with the bus stop on the western side of Barrenjoey Road beyond the maximum distance. The access to this bus stop is not adequate or safe and is considered unacceptable.

- **Building Height non-compliance**

SEPP HSPD requires the rear 25% of the site to be one storey. Proposal extends into this by 1.4m creating a bulkier appearance at the rear of the site. Clause 4.6 submitted disregards planning regulations designed to protect the visual amenity and privacy of the neighbours.

Comment:

The inclusion of additional built form within the rear setback at first floor level for Units 9 and 10 is not supported. This non-compliance demonstrates that the development is cramming more onto this site than it should. A variation to the development standard is not supported.

- ***Impact of population increase from additional 10 units***

Comment:

There are implications within the submissions received that the additional ten (10) units on the site will create exacerbated impacts on the traffic movements in this area. The traffic reports do not support this concern and it appears that there is a broader issue with traffic management within this enclave that needs a more comprehensive review. Traffic congestion and cars banking-up at the intersection of Barrenjoey Road during the morning and afternoon peak periods is a result of many factors including school traffic. Investigations into the potential for a signalised intersection at Barrenjoey Road is a matter for Transport for NSW as the owner of the road asset.

- ***Increased load on sewage mains and stormwater***

Increased risk of flooding on adjoining properties

The increase in area of hard surfaces within the development may also lead to an increase in run-off from the site into a flood declared zone.

Comment:

Council's Development Engineers have identified a deficiency in the information submitted with the application, which does not allow them to ascertain if the proposed stormwater connection is viable. Due to insufficient information, this issue remains unresolved. This issue forms a reason for refusal.

- ***Amenity Impacts***

Visual and Acoustic impacts on neighbours

Noise levels from the 15 bay car park

Comment:

The proposed layout of the parking on the site has been detailed elsewhere within this report. The inclusion of numerous parking spaces directly adjoining bedrooms and windows to those rooms is considered a poor design and amenity outcome. The layout also provides minimal areas for landscaping to offer any relief to the extent of hardstand area, and the reflected/reverberated noise from fifteen (15) vehicles in this location. This aspect of the development forms a reason for refusal.

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported, subject to conditions</p> <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 subject to conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>Not Supported</p> <p>The development application seeks approval for demolition works and construction of 10 self-contained dwellings pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.</p> <p>Council's Landscape section has assessed the proposal against Pittwater 21 DCP Controls and the Seniors Living Policy urban design guidelines under SEPP 2004, as follows:</p> <ul style="list-style-type: none"> • DCP Controls: B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; C1.21 Seniors Housing; C1.24 Public Road Reserve - Landscaping and Infrastructure; and D1 Avalon Beach Locality, • Seniors Living Policy: section 2. Site Planning and Design; section 3. Impacts on Streetscape; and section 4. Impacts on Neighbours. <p>In its current form, the landscape proposal is not supported for the following reasons:</p> <ul style="list-style-type: none"> • the public footpath proposed as 1.2 metres wide is contrary to the requirement for a 1.5 metre wide footpath as nominated under DCP control C1.21 Seniors Housing. This additional footpath width thus may impact upon additional trees within the road verge, over and above the impacts currently assessed with the Arboricultural Assessment Report for the proposed public pathway, • the quantity of tree loss within the front setback and road verge limits the opportunity to minimise the impact of new development on the streetscape, • the quantity of tree loss particularly within the front setback is contrary to the objectives of DCP control B4.22 Preservation of Trees and Bushland Vegetation; C1.1 Landscaping; and Seniors Living Policy section 2. Site Planning and Design and section 3. Impacts on Streetscape, and • insufficient side boundary screen planting by way of small

Internal Referral Body	Comments
	<p>and medium height tree planting along the side boundaries to reduce the impact of development upon neighbours.</p> <p>To support this application, consideration of tree retention of existing native trees is required through re-design of the footprint to ensure as many high and medium retention value trees are retained and protected. This requirement for retention of existing trees responds to DCP control B4.22 Preservation of Trees and Bushland Vegetation, and C1.1 Landscaping, as well as Seniors Living Policy: section 2. Site Planning and Design; section 3. Impacts on Streetscape; and section 4. Impacts on Neighbours.</p> <p>Public footpath with road verge</p> <p>Pittwater 21 DCP Clause C1.24 Public Road Reserve - Landscaping and Infrastructure, requires a 1.5 metre wide footpath for residential development comprising 6 or more dwellings. The proposal for a 1.2 metre wide footpath is contrary to Pittwater 21 DCP.</p> <p>The proposed alignment of the footpath as shown on the Civil Plans C01 and C02 impacts upon existing street trees through excavation works that are reported in the Arboricultural Assessment Report as likely to affect tree condition.</p> <p>The Arboricultural Impact Assessment for the site includes retention of the following trees along the frontage of No. 27-29 for the footpath within the road verge: T6, and T11, as assessed in the Arboricultural Impact Assessment, and T1, T2, T3 and T4 as assessed in the Arboricultural Assessment Report for the proposed public pathway. It is anticipated therefore that a complying 1.5 metre wide footpath will have increased detrimental impacts that may affect these trees. The development application assessment is therefore unable to be continued as the impact to these trees is unknown.</p> <p>The Arboricultural Impact Assessment for the site includes removal of the following trees along the frontage of No. 27-29 for the footpath within the road verge: T5, T7, T8, T9, and T10.</p> <p>The Arboricultural Assessment Report for the proposed public pathway assesses that the impact to the existing street trees T1, T2, T3 and T4 within the road verge should be determined by a non-destructive tree root investigation as structural root zone (SRZ) disturbance is likely. Under Australian Standard 4970-2009 Protection of Trees on Development Sites, such investigations are required to consider the design of the footpath including design options such as a suspended footpath, construction of the footpath on top of the existing ground with no excavation, or installation of</p>

Internal Referral Body	Comments
	<p>an alternative footpath material.</p> <p>This information has not been presented at development application stage and thus the footpath proposal is insufficient in detail and can't be considered for approval at this stage.</p> <p>Landscape Character</p> <p>Pittwater 21 DCP Clause C1.21 Seniors Housing, requires consideration to reduce the visual bulk and scale of development and retention of natural vegetation.</p> <p>The loss of vegetation is extensive and impacts upon the landscape character of tall canopy trees currently evident throughout Avalon. It is recognised that many of the existing trees proposed for removal are classified as Exempt Trees under Northern Beaches Council tree policy.</p> <p>The quantity of tree loss as proposed is not supported. To support this application, consideration of tree retention of existing native trees is required through re-design of the footprint to ensure as many high retention value trees are retained and protected.</p> <p>This requirement for retention of existing trees additionally responds to DCP control B4.22 Preservation of Trees and Bushland Vegetation, and Clause C1.1 Landscaping.</p> <p>The Seniors Living Policy draws attention to the requirement to:</p> <ul style="list-style-type: none"> • retain trees on the street and in front setbacks to minimise the impact of new development on the streetscape; • retain trees at the rear of the lot to minimise impact on neighbours; and • retain large or otherwise significant trees on other parts of the site through sensitive site planning. <p>It is considered that the following trees should be retained over and above the listed trees shown on the plans for retention, to satisfy the Seniors Living Policy:</p> <p><u>Road Verge</u> The following trees are noted for retention within the road verge: T6 and T11, subject to further investigations to respond to concerns raised above.</p> <p><u>Front Setback</u> T14 (She Oak with medium retention value), with any proposed low</p>

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	<p>walling/fence located to minimise tree impact, T15 (She Oak with high retention value), with any proposed low walling/fence, stairs and fire hydrant booster located to minimise tree impact, T20 (Angophora with high retention value) is recommended for retention, however the proposed fencing requires relocation to minimise tree impact, T21 (Eucalyptus with high retention value) is recommended for retention, however the proposed fencing requires relocation to minimise tree impact.</p> <p>Note: the following trees are noted for retention within the front setback: T20 and T21</p> <p><u>Rear Setback</u></p> <p>Nil, over and above the proposed retention of T50.</p> <p><u>Side Boundaries</u></p> <p>T58 (Tallowwood with medium retention value), with the surface pavement for the ground carparking area to be designed to accommodate an alternative permeable / porous pavement material.</p> <p>Note: the following trees are noted for retention within the side boundary setbacks: T12, T22, T23 and T24.</p> <p>Landscape Proposal</p> <p>To achieve the landscapes of the Seniors Living Policy and Pittwater 21 DCP, the landscape plan is to be amended to include the following:</p> <ul style="list-style-type: none"> • continuous medium sized canopy trees along the western side boundary, • continuous medium sized canopy trees along the eastern side boundaries, thus requiring any proposed walling to be relocated to allow for sufficient soil volume area to support trees, • at least 3 large canopy trees and at least 2 other medium canopy trees within the front setback, • at least 3 large canopy trees and at least 2 other medium canopy trees within the rear setback, and • landscape walling, fencing, paths and the like shall be relocated to minimise impact upon existing trees. <p>The landscape proposal is not supported.</p>
NECC (Development Engineering)	<p>Not Supported</p> <p><u>Driveway</u></p> <p>Traffic officer requires a 5.5m wide and 6.0m long driveway from</p>

Internal Referral Body	Comments
	<p>the property boundary. The proposal shows 3.8m wide which can affect the waste storage area and the entrance to the development. An amended access driveway plan and waste storage plan is requested in this regards.</p> <p><u>Drainage plan</u> The development proposes to build over and extinguish Council's drainage easement, The proposal is to divert stormwater from the upstream property 31 North Avalon Road to the Council drainage system in the road. The proposed development wishes to connect the stormwater discharge from the developed site to drainage system located near the rear of 25 North Avalon Road . A CCTV of the existing drainage system down stream of the site provided, indicate that no public stormwater drainage is connected to it and is in a dilapidated and poor condition.</p> <p>In order for Council to permit the extinguishment of the proposed Council's drainage easement within the site and to connect into a redundant pipe line The applicant is required to submit the following:</p> <ul style="list-style-type: none"> • Confirm that they have been given consent from 31 North Avalon Road to divert their domestic stormwater drainage line. • The CCTV survey video footage used to create the CCTV report submitted with the DA. • The submitted CCTV report show that the existing drainage system down stream is in a dilapidated condition. • The drainage system that the development proposes to connect shall be upgraded and/or reinstated to ensure that the down stream drainage is sustainable for the life of the proposed development. The minimum pipe size for Council drainage system is 375mm. A concept stormwater plans is requested from the development site to Council pit located in Tasman Road with supporting hydraulic study. • Provide title search for all the down stream properties from the development site to Tasman Road to demonstrate that there is a Council's drainage easement affecting all the down stream lots. If there is no drainage easement benefiting Council the applicant will require driange easement rights to be created to benefit the subject development. Detail evidence of drainage easement rights is requested. <p><u>Footpath</u> The footpath plan is to be amended to 1.5m wide. Council's Landscape offier is requested to comment on the location of the footpath and it's impact on the existing trees in this area.</p> <p>As result of in sufficient information Development Engineers can</p>

Internal Referral Body	Comments
	not finalise the comments.
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>Supported</p> <p>The proposed seniors living development is located within the Probable Maximum Flood extent as identified in the Avalon to Palm Beach Floodplain Risk Management Study and Plan, 2017. The peak Probable Maximum Flood level is 16.09m AHD, the proposed floor levels of the dwellings are set at 16.10m AHD.</p> <p>As per the recommendation of the Flood Risk Management Report the subfloor and perimeter walls of units 1 and 2 are to be sufficiently open to not impede flood water. The development is recommended for approval subject to conditions.</p>
Strategic and Place Planning (Urban Design)	<p>Supported</p> <p>The proposed development was subject of a pre-lodgement meeting with the applicant held in February 2019.</p> <p>The development represents a moderate intensification of the site which is comparable to similar developments in the local area. Comments provided by the Urban Design officer to the applicant in the pre-lodgment meeting have generally been addressed.</p> <p>The development represents a style that is architecturally sympathetic to the adjacent neighbouring properties and sits well within the context. The lightweight nature of the architectural materiality and the selective shading and privacy devices assist to reduce the perceived bulk and scale of the overall development. Deep balconies also provided for passive climate control whilst this enhanced private open space to each of the apartments is generous.</p> <p>Similarly the site planning is well considered and articulated across the site optimising the climatic conditions and orientation enhancing the solar and ventilation strategies across the site through the buildings' orientation whilst remaining within the relevant development controls of setbacks and building envelope.</p> <p>The proposed development can generally be supported.</p> <p><u>Assessing Officer Comment</u></p> <p>While the Urban Design comments generally support the application based on high level urban design principals which focus more generally on elements like aesthetics and building design, these comments do not focus on the more detailed appropriateness of the development in terms of compliance with the requirements of the SEPP, case law and planning principles.</p> <p>As indicated in the comments above, while the development provides an architecturally sympathetic appearance and building form, the development is considered deficient in terms of its</p>

Internal Referral Body	Comments
	<p>consistency with the local character of development as it is specified within the Avalon Beach Locality Statement and by the test required to establish suitability of development under Part 3, Section 1 and Clause 33 of the SEPP. Accordingly, based on a detailed assessment of the development against the relevant planning controls relating to character and consistency with the SEPP, the proposal is ultimately found to be unacceptable based on the current design and character response and is therefore not supported.</p>
Traffic Engineer	<p>Not Supported</p> <p>The proposal is for demolition of two existing dwellings and construction of 10 seniors living units.</p> <p>The traffic generating by the proposed development is expected to be the total of 5 vehicle trips in peak hours and the increase of 3 vehicle trips in peak hours. The traffic generation impact resulting from the proposal is considered to be negligible noting that the morning peak hours of seniors hour does not generally coincide by the traffic peak hour.</p> <p>The proposal provides 15 parking spaces which satisfies the SEPP requirement of provision of 13 off-street parking spaces.</p> <p>The proposal includes the provision of a 4m wide entry and exit driveway onto North Avalon Road. Given the proposed driveway being longer than 30m, the provision of a minimum 5.5m wide passing bay for at least the first 6m of driveway from the property boundary is required. The access driveway shall be designed in accordance with the engineering requirements and is subject to the development engineers approval.</p> <p><u>Assessing Officer Comment</u> While the Traffic Engineer generally supports the application as the development provides sufficient on-site parking to satisfy the requirements of SEPP HSPD, the access into the site requires a substantial increase to the width of the driveway in order to facilitate two vehicles passing within the site. It is not considered acceptable for this to be dealt with by condition. The implications of increasing the driveway width a further 1.5m will require amendments to the design relocating the waste storage area and impacting on the pedestrian access into the site. The access into the site is considered a key element of the proposal and is not something that can be successfully dealt with through conditions. Accordingly, the proposal is ultimately unacceptable with the current access design and not supported.</p>
Waste Officer	<p>Not Supported</p> <p>The applicant has not complied with the Northern Beaches Council Waste Management Guidelines as follows. A redesign is required to ensure compliance.</p>

Internal Referral Body	Comments
	<p><u>Bin room design and location</u> The applicant is to ensure there is a bin room at street level to facilitate a wheel out and return service by Council and/or its agents. The bin room is to be able to accommodate 11 x 240L bins required for 10 dwellings in a single row of bins. No bin stacking is permitted. Bin dimensions are w – 650mm; d – 750mm and height – 1060mm (close lid) or 1600mm (open lid)</p> <p><u>Waste Storage Area</u> The Waste Storage Area must be: a) Incorporated entirely within the site boundary and, if it is an external structure, be designed to reduce visual impact and clutter from the street. The waste enclosure to be set back a minimum of 3000mm from the front boundary but within 6500mm of the front property boundary.</p> <p>Any doors fitted on the Waste Storage Area, pathway and access will be:</p> <ul style="list-style-type: none"> a) A minimum width of 1200mm. b) Able to be latched in an open position. c) Unobstructed by any locks and security devices. d) Openable in an outward direction. <p><u>Access Pathway</u> The pathway and access between the Waste Storage Area and Collection Point will be: a) Solid, concrete, continuous, non-slip and clear of any obstructions and steps. b) A maximum ramp gradient of 1 in 8. c) Hazard free and not via a pathway with vehicular traffic. d) A minimum width of 1200mm. Currently shared pathway with vehicles.</p> <p><u>Bulky Good Waste Storage</u> A bulky goods waste storage area must be provided that will be:</p> <ul style="list-style-type: none"> a) A minimum of 4m³ per 10 dwellings fit for the purpose of storing bulky goods. b) A room or caged area separate from the Waste Storage Area. c) to be located within 6500mm of the front property boundary d) A maximum ramp gradient of 1 in 8. e) Hazard free and not via a pathway with vehicular traffic. f) A minimum width of 1200mm.

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 and no conditions are recommended.

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. 1017780M_03 dated 9 October 2019).

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

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	45	45

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

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

The DA has been lodged pursuant to SEPP (HSPD) as the development is for self-contained dwellings.

Chapter 1 – Preliminary

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

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

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

Comment: The proposed development is considered to be consistent with the first two aims (a) and (b) of the policy as the development will provide an increase in supply and diversity of accommodation to meet the needs of seniors or people with a disability.

The proposed development is considered to stretch the limits of flexibility in relation to being in a satisfactory proximity of existing infrastructure and services. The site is short of the required 400m to the closest bus stops on Barrenjoey Road. According to the Applicants supporting documents, the bus stop on the eastern side of Barrenjoey Road is approximately 384m from the primary entrance of the site and the bus stop on the western side of Barrenjoey Road is 435m. It is Councils position, that the current arrangement, even were it compliant, does not provide a suitably safe access crossing Barrenjoey Road. The applicant has submitted a Clause 4.6 in relation to this non-compliance.

When considering the development against the aim of achieving good design, the development must be considered in context with other provisions of the SEPP (HSPD). The aim of the policy is to encourage seniors housing to be a good design outcome, which maintains and minimises the impacts on the amenity and character of the area. The proposed built form does not minimise the impact on the character of the area as detailed in this report. Accordingly, the proposed development has been found to be inconsistent with the aims of this policy and this issue has been included as a reason for refusal.

Chapter 2 – Key Concepts

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

Chapter 3 – Development for seniors housing

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

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community	Bus services are located approximately 384m to the south-bound bus stop and 435m to the north-bound bus stop on Barrenjoey Road.	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	services and recreation facilities, and (c)the practice of a general medical practitioner		
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	The site is not within 400m of facilities or services required by the SEPP. The site is within 400m of the south bound bus service which provides access to Avalon, Mona Vale and other areas where appropriate services are available. The existing access pathway to these critical bus stops is considered inadequate. While footpaths to these bus stops are undersized and in some locations missing and could be upgraded as part of a supporting consent, the access to get across Barrenjoey Road presents more significant concerns in terms of safety for the target market of this development, seniors or people with a disability.	NO
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	N/A	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Reticulated water and sewerage infrastructure is presently available to the site. The proposed seniors housing development is capable of connecting to a reticulated water system, in accordance with the provisions of Clause 28.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v): i) the natural environment and the existing uses and	The development as proposed is considered inconsistent with the requirements contained within Clause 25(5)(b)(i), (iii) and (v) for the following reasons: <i>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</i> <u>Comment:</u> The site is located within a low density residential area where the very predominant building pattern is a single dwelling structure with large landscaped	NO

Development Criteria			
Clause	Requirement	Proposal	Complies
	<p>approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	<p>rear and front yards that maintain the visible vegetation canopy that is synonymous with this part of the Avalon Beach Locality. The natural environment forms a key characteristic encapsulated by the emerging development in the surrounding area.</p> <p>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</p> <p><u>Comment:</u> While the Applicant has provided consultant reports to support the absolute stretch of the development to meet in part the access distances of the site to the only transport intersection points on Barrenjoey Road, the report fails to identify the inappropriateness of the physical circumstances at these vital transport connection points.</p> <p>The north bound bus stop requires seniors or people with a disability or compromised mobility to negotiate Barrenjoey Road. This location has a small pedestrian refuge that has regularly been hit by vehicles travelling at speed around the bend on approach. Once across the road, the access to the bus stop is inappropriate and contains an unprotected drop off to west which would be very high risk for any one with walking assistance or compromised visibility.</p> <p>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</p> <p><u>Comment:</u> The proposed development includes ten (10) apartments, five (5) of which are three (3) bedroom and five (5) are two (2) bedroom. The development is two</p>	

Development Criteria			
Clause	Requirement	Proposal	Complies
		(2) storeys with the second floor level interconnected with footbridges and elevated walkways. Due to the number of dwellings and their elevation above the dwellings to the south, the privacy impacts from the development and the elevated footways is considered to result in an overwhelming impact on these adjoining properties.	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A Site Analysis Plan and the Statement of Environmental Effects submitted with the application satisfactorily address the requirements of this clause.	Yes

Clause 31 Design of in-fill self-care housing

Pursuant to Clause 31, in determining a DA to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	<p>Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>The proposed development while providing a two storey building form will not provide a pattern of development which is complementary to the existing pattern of development demonstrable on the surrounding properties.</p> <p>The Desired Character for the Avalon Beach Locality includes the following relevant features which support the concerns raised in relation to the character of the development. <i>"Carparking should be provided on site and where possible integrally designed into the building.</i> <i>Future development will maintain a building height limit below the tree canopy, and minimise bulk and scale. Existing and new native</i></p>

Section	Requirements	Comment
		<p><i>vegetation, including canopy trees, will be integrated with development. The objective is that there will be houses amongst the trees and not trees amongst the houses.</i></p> <p><i>As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment</i></p> <p>The proposed built form is considered inconsistent with the desired and existing character of the locality as the density and scale of the development is considered excessive, even given the additional density discretions provided by the SEPP HSPD.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation. 	<p>The proposed development is not considered to minimise the impact on the neighbourhood character.</p> <p>The placement and extent of structures on the site will result in an interruption of the green tree canopy and large separation between physical structures, which is clearly evident from the rear yards and from inside the surrounding dwellings.</p> <p>The proposed parking layout on the site will result in hardstand parking areas which directly adjoin bedroom windows and provide negligible opportunities for landscape buffers or planting areas centrally on the site.</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape. 	<p>While the overall design of the buildings is generally acknowledged to attempt to integrate features identifiable in surrounding building designs, the overall size of the development as it presents to the street is considered significantly bulkier than the general character of this location.</p> <p>The proposed driveway is</p>

Section	Requirements	Comment
		inadequate for the scale of the development providing a driveway under 4.0m in width. A 5.5m driveway is required to enable dual vehicles to pass.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	As identified in the public submissions received, the proposed development will result in adverse impacts on the adjoining properties in terms of privacy and character. The development is not consistent with the requirements of this clause.
5. Internal site amenity	Objectives of this section are to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	The proposed site layout is not considered to provide safe pedestrian links. The proposed driveway directly adjoins the main pedestrian pathway into the site which provides no separation of these spaces. The site layout is not considered consistent with the requirements of the clause.

Clause 32 Design of residential development

In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	<i>"Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, commercial, community and recreational facilities will serve the community."</i> This is clearly identified within the locality statement for the Avalon Beach locality. The development has not provided an adequate design response to minimise the additional density proposed on the site.	NO
	b. Retain,	Not applicable	N/A

Control	Requirement	Proposed	Compliance
	<p>complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.</p> <p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p> <p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in</p>	<p>While the proposed development provides setbacks to most elements which comply with the numerical requirements for medium density housing, the established character of development surrounding on this site provide much larger rear setbacks up to 20m consistently, which is one of the attributes that has created the visible tree canopy and sense of openness. There is a further concern with the elevated walkway platforms that link the apartments at first floor level to the single lift access. As the development provides the minimum setbacks, this element will be highly visible to the directly adjoining properties.</p> <p>The potential for overlooking and increased sense of bulk resulting from this feature is not considered to address this requirement.</p>	<p>NO</p>

Control	Requirement	Proposed	Compliance
	<p>the streetscape. f. retain , wherever reasonable, major existing trees, and g. be designed so that no building is constructed in a riparian zone.</p>		
<p>CL 34 Visual and acoustic privacy</p>	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>The site planning of this development does not provide a desired level of visual or acoustic amenity with the centralised carpark resulting in vehicles directly adjoining bedrooms and bedroom windows with the development itself.</p> <p>As the development covers approximately 60% of the site, and removes fifty-one (51) trees, the landscaping is inadequate in screening any additional noise or overlooking from the site.</p>	<p>NO</p>
<p>CL35 Solar access and design for climate</p>	<p>The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a</p>	<p>The proposed development does not result in any adverse impact on the surrounding properties in terms of overshadowing.</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	northerly direction.		
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Insufficient detail has been provided to satisfy Council's Development Engineers in relation to the treatment of stormwater from the increased hard paved areas of the development.	NO
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	Adequate casual surveillance is available from within the dwellings to satisfy this requirement.	Yes
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet	The proposed development has failed to adequately demonstrate that safe pedestrian links can be provided from the site to the public transport links required to access essential services. These deficiencies are detailed elsewhere in this report and include	NO

Control	Requirement	Proposed	Compliance
	safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	adequate footpath width and provision from the site and suitable safe access to the bus stops on Barrenjoey Road.	
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	The proposed waste storage area does not satisfy the requirements of Council's Waste Management Guidelines.	No

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000sqm	2226m ²	Yes
Site frontage	20 metres	36.5m	Yes
Building Height	8.0m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.1m	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Maximum 2 storeys	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	The proposed development includes part of the second floor area of Dwelling 9 and 10 within the rear 25% of the site.	NO

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in

Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	The application was accompanied by an Access Report prepared by Vista Architects which demonstrates the development is capable of satisfying the requirement	Yes
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Can be conditioned to comply.	Yes
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.	Adequate space can be provided on site for letterboxes.	Yes
Private car accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be	Complies	Yes

Control	Required	Proposed	Compliance
	increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.		
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Complies	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Complies	Yes
Bedroom	At least one bedroom within each dwelling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	Complies	Yes
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Can comply	Yes
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Can comply	Yes
Surface finishes	Balconies and external paved areas must	Can be conditioned to comply	Yes

Control	Required	Proposed	Compliance
	have slip resistant surfaces.		
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Can be conditioned to comply	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	Can be conditioned to comply	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Can be conditioned to comply	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Can be conditioned to comply	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Can be conditioned to comply	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	Can be conditioned to comply	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Can be conditioned to comply	Yes
Garbage	A garbage storage area must be provided in an accessible location.	Can be conditioned to comply	Yes

Part 7 Development standards that cannot be used as grounds to refuse consent

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the 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.

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

In accordance with Clause 50 of SEPP HSPD, a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8.0m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	The proposed development is less than 8.0m in height.	Yes
Density and scale	0.5:1	0.495:1	Yes
Landscaped area	30% of the site area is to be landscaped (667.8m ²)	39% (879m ²)	Yes
Deep soil zone	15% (333.9m ²) of the site area Two thirds of the deep soil zone (222.6m ²) should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	30.3% of the site area is a deep soil zone (674 square metres). The majority of the deep soil zone is located within the front and rear setback areas.	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	The applicant has provided solar access diagrams which demonstrate that the private open space areas of each dwelling will receive 3 hours of solar access. Nine (9) of the ten (10) dwellings will receive three (3) hours of solar access to the living room.	Yes
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in	All dwellings provide adequate open space.	Yes

Control	Required	Proposed	Compliance
	<p>part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area</p>		
Parking	0.5 parking spaces for each bedroom.	The development provides 6 x 2 bedroom dwellings and 4 x 3 bedroom dwellings. 12 spaces are required. The development provides 15 spaces.	Yes
Visitor parking	None required if less than 8 dwellings	The development provides three (3) spaces above the required number which can be used as visitor spaces.	Yes

CLAUSE 4.6 VARIATION - BUILDING HEIGHT AND BUS STOP (SEPP HSPD)

Description of non-compliance: Building Height (rear 25% no more than 1 storey)

Development standard: SEPP (HSPD)

Height of buildings - rear

	25% no more than 1 storey
Requirement:	15.24m
Proposed:	13.9m
Percentage variation to requirement:	8.8%

Assessment of request to vary a development standard:

The following assessment of the variation to Height of Buildings development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Height of Buildings development standard is not expressly excluded from the operation of this clause.

(3) 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:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,***
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,***
- (c) to promote the orderly and economic use and development of land,***
- (d) to promote the delivery and maintenance of affordable housing,***
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,***
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),***
- (g) to promote good design and amenity of the built environment,***
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,***
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,***

(j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

"The development provides a greater setback at 8.9m to the rear boundary at ground level than would be required in either a dwelling house (where 6.5m is required) or medium density development zone (where 3m would be required for multi dwelling housing).

The variation allows for the articulation of the rear wall of Level 2 which assists in minimising the visual bulk of the rear elevation.

The variation occurs at the centre of the site and is setback around 13 metres from both the side and rear boundaries. As such the non-complying element of the building does not result in any non-complying impact on the solar access to the surrounding properties.

The variation does not result in any adverse privacy impacts on the surrounding development."

This assessment does not support the justification provided in relation to the environmental planning grounds provided. While the development may provide greater setbacks than those required where medium density and multi unit housing are permissible and where a dwelling house is permissible, this is a development that is neither of those things. The proposal is for multi unit housing on a low density zone. The SEPP has provided scope for greater site coverage and density than would be allowed by a permissible form of development on this site and there is no environmental planning grounds to support proposed development not complying.

In this regard, the applicant's written request has not demonstrated that the proposed development is an orderly and economic use and development of the land, or that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Council are not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The Urban Design Guidelines for Infill Development set out the following objectives in relation to minimising impacts on neighbours. The Guidelines list the SEPP requirement for development in the rear 25% of the site to not exceed one storey as the relevant control for Part 4 of the guideline.

The objectives of this clause are as follows:

- *To minimise impacts on the privacy and amenity of existing neighbouring dwellings*

Comment:

While the first floor component at the rear of the development provides minimal windows, the additional built form in this location will be highly visible from the adjoining properties both internally and externally.

- *To minimise overshadowing of existing dwellings and private open space by new dwellings*

Comment:

The proposed development does not result in any additional adverse impacts in terms of overshadowing

- *To retain neighbours views and outlook to existing mature planting and tree canopy*

Comment:

The development will result in the removal of a significant volume of existing planting and tree canopy as a result of the extensive footprint. The inclusion of non-compliant built form at first floor level will further reinforce the loss of tree canopy and vegetated character of this location.

- *To reduce the apparent bulk of development and its impact on neighbouring properties*

Comment

The proposed development has sought to maximise the site coverage in this instance providing ten (10) apartments with small internal spaces on a site that would traditionally accommodate two (2) single dwellings. While the development is made permissible pursuant to SEPP (HSPD), the resulting built form provides a much larger bulk and scale than the surrounding development. The development is considered to provide too much built form and would benefit from the rear building losing dwelling 9 and 10 removing this elevated built form and the associated connecting walkways.

To provide adequate building separation.

Comment:

The proposed development while satisfying the minimum numerical setbacks at ground level for development, seeks to compromise the requirement for 25% of the rear of the site to be single storey. In the Avalon Beach Locality, large building separation is a characteristic feature. No encroachment of this requirement is supported.

Zone objectives

The underlying objectives of the R2 Low Density Residential zone are:

The underlying objectives of the R2 Low Density Residential zone:

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

Comment:

The proposed development will provide an increase in the diversity of housing for seniors and people with a disability in this locality. While the site is located within a low density residential environment, the built form and scale of the development fails to provide a suitable transition of this form of housing comfortably within the existing local character.

It is considered that the development does not satisfy this objective.

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

Comment:

The development provides for residential accommodation on the site and does not include any other facilities or services. The development will not impact on other land uses in proximity of the site.

It is considered that the development satisfies this objective.

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

Comment:

The proposed development is not considered of a low intensity or scale compatible with the surrounding land uses.

It is considered that the development does not satisfy this objective.

Conclusion:

For the reasons detailed above, the proposal for ten (10) dwellings is considered to be inconsistent with the objectives of the R2 Low Density Residential zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the inconsistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development

Standard cannot be assumed by the Local Planning Panel.

Description of non-compliance: Bus Stop

Development standard: SEPP (HSPD) Clause 26(1) and (2)	Bus Stop Distance from site
Requirement:	Within 400m of the site
Proposed:	Up to 435m from the site (bus stop on the western side of Barrenjoey Road)
Percentage variation to requirement:	8.8%

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

The distance to services (bus stop) development standard is not expressly excluded from the operation of this clause.

(3) 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:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) states that the development is consistent with the aims of the SEPP and provides compliance with the relevant planning provisions. Further, the request states:

"The development provides car parking spaces for each dwelling. Each dwelling will therefore have access to at least one car parking space. The provision of car parking on site provides residents who are able to drive the choice of driving to the required services or using public transport.

For those residents who are unable to drive, or who would prefer to use public transport, the bus stop on the eastern side of Barrenjoey Road is accessible via an accessible path of travel and is less than 400 metres walking distance of the site. The walk for the return journey is marginally longer than the specified in the standard however this additional walking distance does not impose an unreasonable or excessive additional requirement on residents who are capable of walking 400 metres to and from a bus stop and then additional steps once at the destination to access the required services."

In this regard, the Applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicants written request argues, in part:

"The pedestrian access to the site could be moved to the western boundary to reduce the number of metres from the site to the bus stop however such an amendment would result in a greater proportion of the front (and potential side) setback being dedicated to a pathway. This would reduce the amount of area available in the front setback for the provision of landscaping and thereby compromise the streetscape and the proposal's consistency with the character of the area."

Comment:

This assessment does not support the justification provided in relation to the environmental planning

grounds provided. Aspects of the site layout have been discussed throughout this assessment. The intent of the SEPP is to provide opportunities for Seniors housing in locations that are able to support the needs of the occupants being 'seniors or people with a disability'. The shops located at the end of North Avalon Road do not meet the criteria of relevant facilities and services as there aren't sufficient community services facilities, banking facilities or medical practitioners. Occupants of the development are therefore required to travel to gain access to these.

The return trip on public transport requires crossing Barrenjoey Road from the bus stop on the western side of the road. The distance from this bus stop is more than 400m and is not considered a suitably safe pathway. Barrenjoey Road contains a blind corner for vehicles travelling south past the bus stop and pedestrian refuge and there have been numerous occasions where the pedestrian refuge has been impacted by a vehicle.

Therefore, the applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Council are not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will not be in the public interest because it is inconsistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

The objectives of the standard for SEPP (HSPD) are addressed above.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the inconsistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of buildings Development Standard cannot be assumed by the Local Planning Panel.

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?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.26m	8.9%	No

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	No
4.6 Exceptions to development standards	No
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.4 Floodplain risk management	Yes
7.10 Essential services	No

Detailed Assessment

Zone R2 Low Density Residential

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause Zone R2 Low Density Residential of the Pittwater Local Environmental Plan 2014.

7.10 Essential services

The proposal has been reviewed by Council's Development Engineer who cannot support the development in its current form. Insufficient information has been provided with the application to support the Applicant's preferred drainage solution connecting into a 'redundant pipe line'.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	6.5m	N/A	Yes
Rear building line	6.5m	6.5m	N/A	Yes
Side building line (multi-unit housing)	East - 3.0m	2.4m to Bed 1 in Dwelling 3	20%	No
	West - 3.0m	3.0m	Nil	Yes
Building envelope (multi-unit housing)	4.2m	Within envelope	N/A	Yes
	4.2m	Within envelope	N/A	Yes

Landscaped area	50%	39% (879m2)	11%	No
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.1 Avalon Beach Locality	No	No
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	No	No
B4.22 Preservation of Trees and Bushland Vegetation	No	No
B5.1 Water Management Plan	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	No	No
B5.10 Stormwater Discharge into Public Drainage System	No	No
B5.12 Stormwater Drainage Systems and Natural Watercourses	No	No
B6.1 Access driveways and Works on the Public Road Reserve	No	No
B6.2 Internal Driveways	No	No
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
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	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	No
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	No	No
C1.6 Acoustic Privacy	No	No
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	No	No
C1.20 Undergrounding of Utility Services	Yes	Yes
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
C4.4 Subdivision - Public Roads, Footpath and Streetscape	No	No
C4.5 Subdivision - Utility Services	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.4 Scenic protection - General	No	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	No	Yes
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	No	No
D1.15 Fences - General	No	No
D1.17 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes

Detailed Assessment

A4.1 Avalon Beach Locality

The desired character outlined in the Locality Statement for the Avalon Beach Locality within P21 DCP, provides very strong guidance for the form of development anticipated and established in this location. Some of the key features incorporated include:

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

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 development. The objective is that there will be houses amongst the trees and not trees amongst the houses.

A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment.

Most houses are set back from the street with low or no fencing and vegetation is used extensively to delineate boundary lines. This, coupled with the extensive street planting of canopy trees, gives the locality a leafy character that should be maintained and enhanced.

Comment

The proposed development does not satisfy the desired future character for development as it does not provide for an integration with existing vegetation.

The proposed development is not considered to provide adequate pedestrian access to public transport, given the nature of the development servicing seniors and people with a disability.

The scale of the development is uncharacteristic. The extent of site coverage and building height are not compatible with the context of the character of the locality.

The proposal is inconsistent with the aims set out in cl.1.2 (b) Aims of The Plan of PLEP 2014 as the excessive removal of existing established trees on the site is considered inconsistent with the Avalon Beach Locality and fails to protect and enhance Pittwater's natural environment.

The public benefit of providing seniors living accommodation on this site does not outweigh the concerns in relation to the site coverage and built form of the proposal and the impact that this would have on the broader locality

B5.10 Stormwater Discharge into Public Drainage System

Council's Development Engineer has not received satisfactory information to support the proposed Stormwater connection into the public drainage system.

C1.1 Landscaping

The proposed development seeks an excessive building footprint which will provide inadequate opportunity for the retention of existing established trees on the site and within the road reserve that provide an important canopy for the site and also for the broader locality.

The scale of tree removal and the replacement planting do not provide adequate balance to provide any relief of the scale of development. Accordingly, the development is not supported and this issue forms a reason for refusal.

C1.5 Visual Privacy

The proposed development which incorporates ten (10) dwellings on the site includes five dwellings at first floor level which are connected by a central elevated walkway.

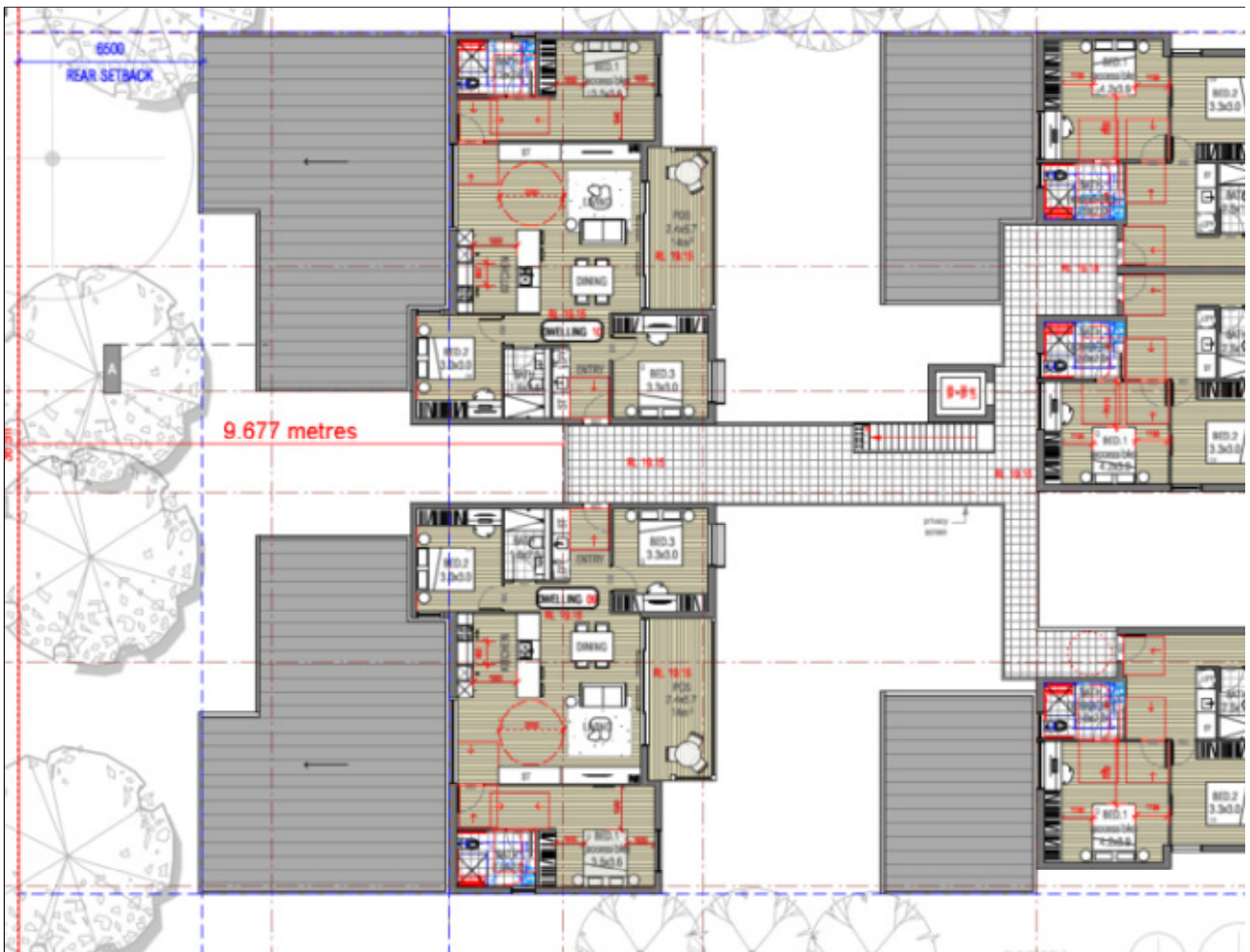


Figure - First Floor Plan (elevated walkway). Source: Architectural Plans by Enviro Studio

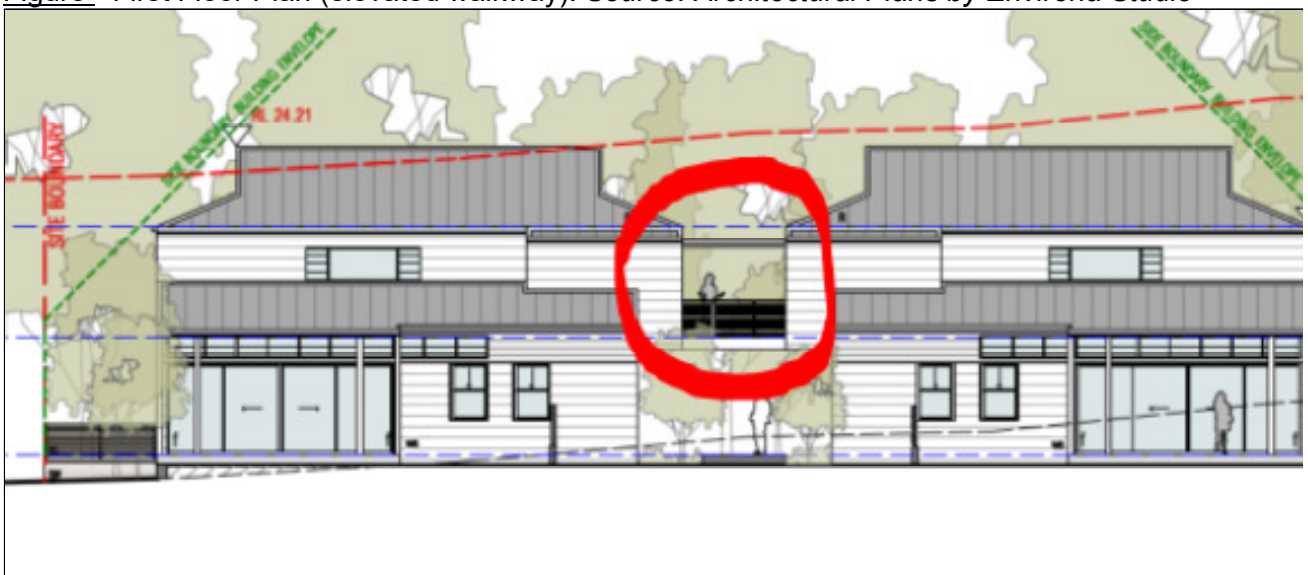


Figure - Southern Elevation facing No.6 and No.8 Urara Road. Source: Architectural Plans by Enviro Studio

Outcomes

- Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.

- A sense of territory and safety is provided for residents.

Controls

- 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).
- 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.
-
- 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.

Comment:

While the proposed elevated walkway is located just over 9.0m from the southern boundary, concern has been raised by the neighbouring properties to the east and west in relation to overlooking as these dwellings, as they currently contain very open living and private open space areas adjacent to the boundary.

The elevated walkways are not considered a good design feature of this development as they will result in additional bulk and site coverage. Providing elevated platforms available to five (5) dwellings on a site surrounded by single dwelling houses on large lots and generous separation from adjoining properties, consolidates the inconsistency of this form of development with the character of the locality. The building forms on the subject site will be extremely visible and exposed from the adjoining properties. Currently, the single storey dwelling on the site has sight lines through to these properties. Overlooking and compromised visual privacy will be exacerbated from the proposed two storey development with ten (10) apartments and elevated walkways.





Photograph 1 and 2 - The subject site visible over the fence adjoining the rear yard of No. 6 and 8 Urara Road

Notwithstanding the numerical setback of the development to the boundary, unnecessary overlooking will be a real and permanent feature for the adjoining properties due to the removal of the existing vegetation.

C1.6 Acoustic Privacy

The design of the development, incorporating at-grade parking within the centre of the site has resulted in some poor design outcomes which are considered to adversely impact the internal amenity of some of the apartments. Clause C1.6 Acoustic Privacy within P21 DCP states:

"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."

In this regard, the following design elements are not supported:

- Parking spaces 1, 2 and 3 adjoin bedrooms and bedroom windows of Dwelling 3

- Communal lift access outside the sole window to Bedroom 1 of Dwelling 2
- Parking space 6 and 7 adjoin the sole window of Bedroom 1 of Dwelling 1
- The main pedestrian access from the street to the rear dwellings adjoins Bedroom 2 window and Kitchen window of Dwelling 3

These elements of the design provide no buffer to the sensitive receivers within these apartments and are considered unacceptable flaws in the design and site layout.

C1.12 Waste and Recycling Facilities

The proposed development fails to provide adequate waste and recycling facilities.

Council's Waste section have reviewed the proposed design and identified the following inconsistencies:

- The proposed bin room is inconsistent with the Northern Beaches Council Waste Management Guidelines. The bin room will not be able to accommodate the required bin storage in accordance with the requirements of the Waste Management Guidelines.
- The bin room must facilitate a wheel out and return service by Council and/or its agents. The bin room must accommodate 11 x 240L bins required for 10 dwellings in a single row of bins. No bin stacking is permitted. A minimum access path with a width of 1200mm.
- The proposed bin room is located on the front boundary of the site and does not provide any form of landscaping to soften the appearance of the structure from the street. The development has not provided a dedicated area for the storage of bulky goods waste and unwanted bulk household materials. A minimum of 4m³ per 10 dwellings fit for the purpose of storing bulky goods.

This issue is listed as a reason for refusal.

C1.20 Undergrounding of Utility Services

While there is no detail provided in relation to undergrounding of utility services, this is something that is considered essential on a site this size. Were the application to be supported, a condition of consent would be imposed which requires arrangements for the provision of underground telecommunications services to be provided to the development.

C1.21 Seniors Housing

While the development is assessed primarily under the provisions of SEPP (HSPD), this clause provides local expectations and requirements for seniors housing being located outside the R3 Medium Density Residential and B4 Mixed Use zones. The proposed development is considered inconsistent with the following outcomes and controls of this clause:

Outcomes:

- *Visual bulk and scale of development is limited.*
- *Restricted footprint of development on site.*
- *Retention of the natural vegetation and facilitate planting of additional landscaping where possible.*

- *Achieve desired future character of the locality.*

Controls

- *Be in keeping with the development of the surrounding area in regard to bulk, building height, scale and character.*

As identified throughout this report, the proposed development is considered to result in an excessive footprint which spreads the development over 60% of the site and results in the removal of fifty-one (51) trees from the site, of which twenty-five (25) are prescribed trees.

The removal of such significant amounts of vegetation and tree canopy from the site is in conflict with the desired future character of the locality and is inconsistent with the existing character of the Avalon Beach locality.

The proposed design which includes elevated walkway links will be visible from the private open space and internal living areas of the adjoining properties and will result in an uncharacteristic form of development.

C4.4 Subdivision - Public Roads, Footpath and Streetscape

The proposed development which will require a subdivision to consolidate the two (2) parcels of land do not provide adequate space for compliant footpaths from the site with a minimum of 1.5m in width. For a development specifically for seniors or people with a disability, the provision of suitable, safe and orderly pedestrian access is essential. This issue forms a reason for refusal.

D1.15 Fences - General

The proposed development includes front fence structures that vary in height from approximately 1.1m to 1.3m. Some of the fencing is stepped across the frontage to create privatised open space areas attached to specific apartments. These fencing areas are contrary to the desired and existing open character of front setbacks in the locality.

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.

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

This report provides a comprehensive assessment of the application for the redevelopment of the site as a seniors housing development containing ten (10) dwellings.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP (HSPD) 2004, SEPP 55, SEPP (Infrastructure), PLEP 2014, the relevant codes and policies of Council, the relevant provisions of the Pittwater 21 DCP.

Public Exhibition

The public exhibition of the DA resulted in a very significant response from this small community of concerned residents. Objections to the proposed development include concerns relating to building height, erosion of the natural environmental character through the extensive removal of trees, amenity impacts, over-development of the site and inadequate access to suitable transport infrastructure and essential services.

The issues raised in the submissions have been addressed in the 'Public Exhibition & Submissions' section of this report and are generally concurred with.

The application was referred to a number of internal departments. Fundamental concerns have been raised by Council's Landscape Architect, Development Engineer, Waste Officer, and issues raised within the traffic Engineers comments.

The assessment of the application against the provisions of SEPP (HSPD) has identified that the proposal is not satisfactory in relation to a number of the requirements of the SEPP.

Further, the assessment of the proposal against the provisions of P21 DCP which establishes how successfully the development harmonises with the established and desired future character of the locality has identified that the development, as proposed, is not a successful built form in terms of how it relates to the desirable elements of the neighbourhood or how it transitions the increase in density with the very obvious low density residential location.

Based on the assessment contained in this report, it is recommended that the Northern Beaches Local Planning Panel refuse the application for the reasons detailed within the recommendation of this assessment, and any amendments to those reasons, which would constitute the contentions in

defence of the Court appeal.

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

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 the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2019/1260 for the Demolition works and construction of a Seniors Housing development comprising 10 self contained dwellings and site consolidation on land at Lot 33 DP 8394,29 North Avalon Road, AVALON BEACH, Lot 32 DP 8394,27 North Avalon Road, AVALON BEACH, for the reasons outlined as follows:

1. Reasons for Refusal

1. Pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Aims set out in Clause 1.2(b) of the Pittwater LEP 2014.

2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the Pittwater 21 Development Control Plan:

- Clause B4.22 Preservation of Trees and Bushland Vegetation
- Clause B5.9 Stormwater Management
- Clause B6.1 Access Driveways
- Clause C1.1 Landscaping
- Clause C1.5 Visual Privacy
- Clause C1.6 Acoustic Privacy
- Clause C1.12 Waste and Recycling Facilities
- Clause C1.15 Storage Facilities
- Clause C1.21 Seniors Housing
- Clause C1.24 Public Road Reserve - Landscaping and Infrastructure
- Clause D1.13 Landscaped Area
- Clause D1.15 Fences

3. Pursuant to Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2014:

- Clause 26(2) Access
- Clause 29 Character
- Clause 33 Neighbourhood Amenity and streetscape
- Clause 34 Visual and Acoustic privacy
- Clause 36 Stormwater
- Clause 38 Accessibility
- Clause 40 Building Height (rear 25%)

4. Pursuant to Section 4.15(1)(b)(i) of the Environmental Planning and Assessment Act 1979, the proposed development will result in unacceptable impacts on the natural environment of the Avalon Beach Locality.

5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the Desired Future Character of the location and is an over-development of the site.

6. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979,

the proposed development is not in the local public interest.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.