

Peninsula Gardens Retirement Village: Minor internal alterations to community centre

79 Cabbage Tree Road, Bayview



Development Application

Statement of Environmental Effects to
Northern Beaches Council

Prepared on behalf of Aveo Group

31 October 2022 | 22055

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1.0 Introduction

1.1 Overview

This Statement of Environmental Effects (SEE) has been prepared by Robinson Urban Planning Pty Ltd (RUP) on behalf of the Aveo Group (the land owner and applicant).

The SEE describes a development application (DA) proposing minor internal alterations to the Peninsula Gardens Retirement Village which is located at 79 Cabbage Tree Road, Bayview. The proposed internal alterations comprise the following work to the community centre at the First Floor and Second Floor:

1. Demolition of internal walls which changes the configuration of rooms (as shown in red dash on Drawing No. A100 by McNally Architects)
2. Minor internal alterations including replacement walls (as shown in grey on Drawing No. A100 by McNally Architects).

New joinery is to be completed as exempt development. No external works are proposed.

This DA is submitted to Northern Beaches Council (the Council).

The SEE includes a description of the proposal and an assessment of its environmental effects pursuant to s. 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Capital investment value, consent authority and type of application

The cost of development is \$125,000 (including GST) (see Cost Summary Report). Therefore, in accordance with the EP&A Act, the proposal is a local development.

A Construction Certificate (CC) will be sought separately.

1.3 Information submitted with the DA

This SEE is accompanied by the following plans and information:

- Architectural Plans, by McNally Architects (Drawing No. A004, A005 and A100 Revision 01 dated 25/10/22)
- Bushfire Advice, by EMBER Bushfire Consulting (28.10.22)
- Cost Summary Report (24 October 2022)
- Landowner's consent.

2.0 The site

The site is described below:

The site and surrounds

Bayview is located at southernmost end of Pittwater. The suburb is heavily vegetated and is generally undulating, with steep inclines between Pittwater and Ku-ring-gai Chase National Park to the west. The site is located in the south-western part of Bayview, directly east of the Katandra Bushland Sanctuary.

The Peninsula Gardens Retirement Village occupies a 7.1ha site that is generally rectangular in shape other than its two battle-axe handles that provide vehicular access to Cabbage Tree Road with a secondary access for pedestrians and emergency vehicles to Gulia Street.

The retirement village accommodates 110 dwellings/units (stage 1), car parking, a community centre, hostel, a mini golf course, private roads, footpaths, other infrastructure and landscaping. The proposal relates to the community centre near the centre of the site. A further 24 independent living units have been approved on the site (stage 2) with construction due to commence in 2023.

The existing and approved building and structures on the site were the subject of development consent 82/149 which has been modified on several occasions (and which was subject to a number of appeals to the Land and Environment Court¹).

Undeveloped areas of the site are vegetated and there are two watercourses which meet at the centre of the site before being piped to Council's drainage infrastructure.

A location plan and aerial photograph follow at **Figure 1**. The community centre is located near the centre of the site, as shown on the site plan at **Figure 2**.

Lot/DP

Lot 12 of DP 1081105

Zoning

Zone RU2 – Rural Landscape pursuant to Pittwater Local Environmental Plan 2014 (**Pittwater LEP 2014**) (see **Figure 5**, Section 4.1.6).

Environmental constraints (see **Figure 5**, Section 4.1.6)

- The site is subject to the following provisions in Pittwater LEP 2014:
 - 7.1 Acid sulfate soils
 - 7.3 Flood Planning
 - 7.4 Floodplain Risk Management
 - 7.6 Biodiversity
 - 7.7 Geotechnical hazard
- The site is identified as being bushfire prone as shown on the NSW RFS Bushfire Prone Land Map established pursuant to s. 10.3 of the EP&A Act.

¹ Appeals relevant to the existing development include *Geoffrey Twibill & Associates v Warringah Shire Council* LEC No. 10431 of 1981 and *Aveo North Shore Retirement Villages Pty Ltd v Northern Beaches Council* LEC No 1035 of 2020

Adjoining uses

- The site is known to have critically endangered vegetation under the *Biodiversity Conservation Act 2016*.
- North: To the immediate north of the site is a parcel of bushland. Semi-detached one or two storey dwellings stand between the site and Cabbage Tree Road to the west of the Peninsula Gardens access road. Further to the north is additional bushland with interspersed dwellings. Pittwater is approximately 2km to the north. Other seniors living complexes operated by AVEO include Minkara (900m to the north) and Bayview (900m to the northwest).
- South: A low density residential area is to the south of the site, with other land uses including an electrical substation (400m), the Mona Vale General Cemetery (500m) and the Warriewood Business Park (700m).
- East: Mona Vale residential area sits between the Bayview Golf Course to the north and Mona Vale Road to the south. The town centre of Mona Vale is 1.75km away and Mona Vale Beach is 3km to the east.
- West: The Katandra Bushland Sanctuary is to the west. Further west is the semi-rural suburb of Ingleside and Ku-ring-gai Chase National Park.

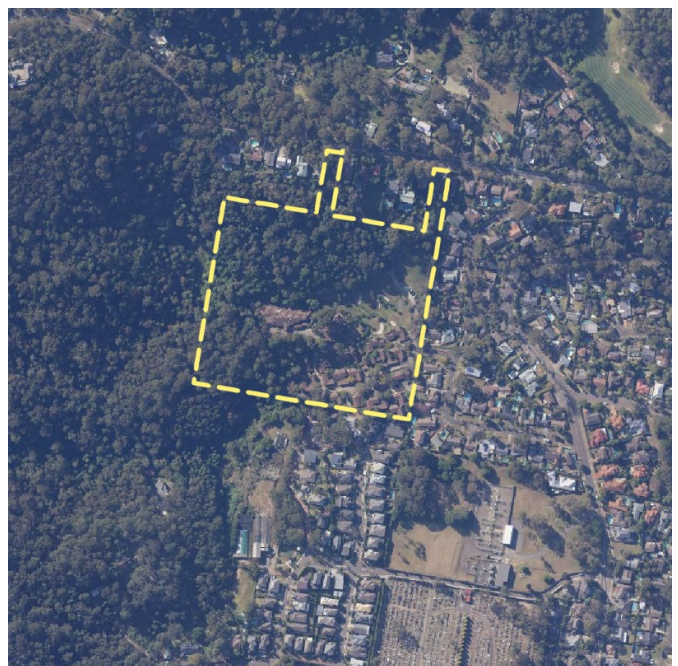


Figure 1 – Site location plan and aerial photograph (Source: <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>)




 Existing community centre (location of the proposed internal alterations)



Figure 2 – Site plan showing location of the community centre (proposed internal alterations) (Source: Mc Nally Architects, DA 004)

3.0 The proposal

The proposal, as illustrated on the Architectural Plans prepared by McNally Architects, comprises the following internal alterations to the community centre at the First Floor and Second Floor:

1. Demolition of internal walls which changes the configuration of rooms (as shown in red dash on Drawing No. A100 by McNally Architects)
2. Minor internal alterations including replacement walls (as shown in grey on Drawing No. A100 by McNally Architects).

New joinery is to be completed as exempt development. No external works are proposed.

Extracts from the Architectural Plans follow at **Figures 3 and 4**.

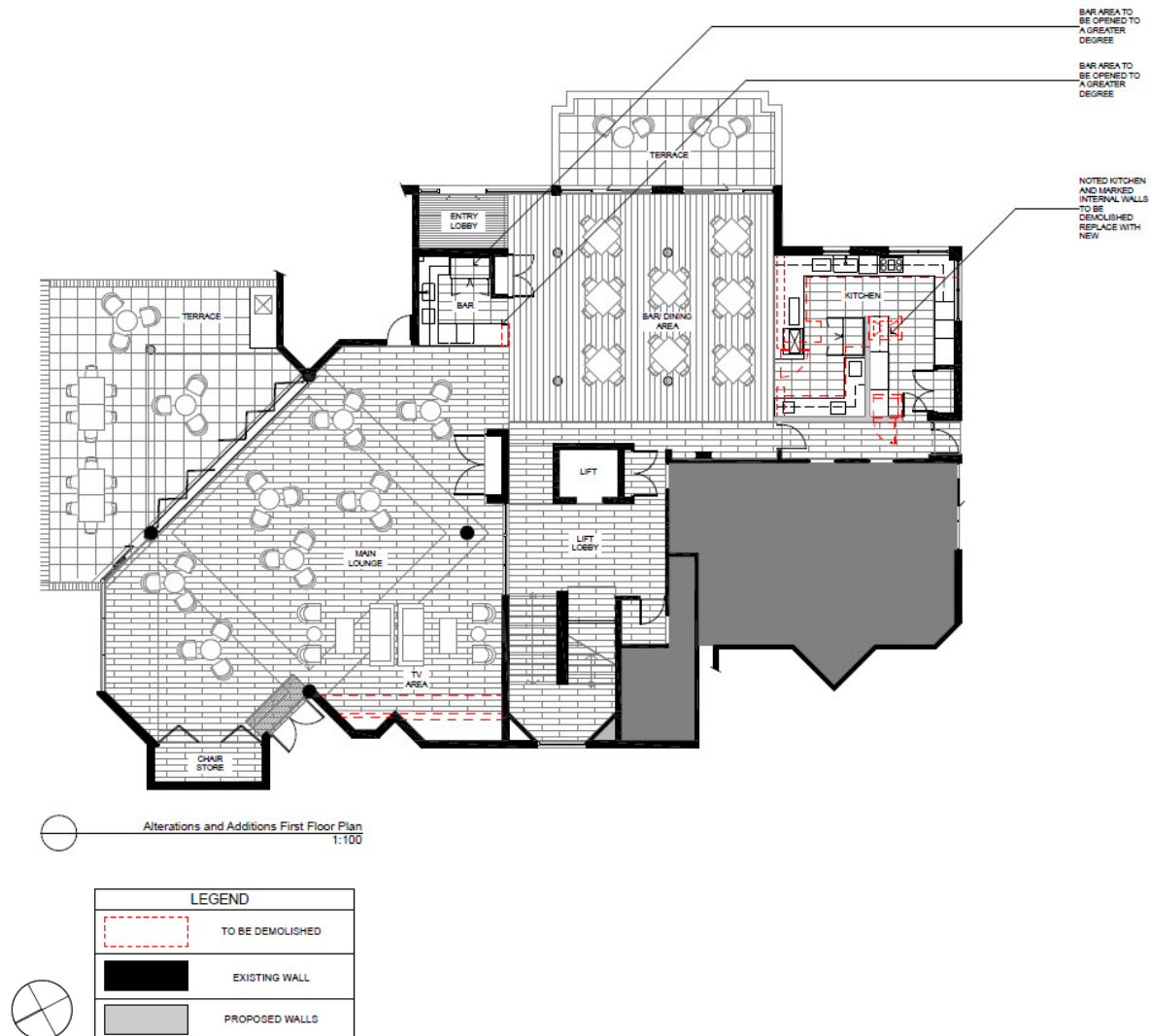


Figure 3 – Plan of proposed First Floor internal alterations (Source: McNally Architects, A100)

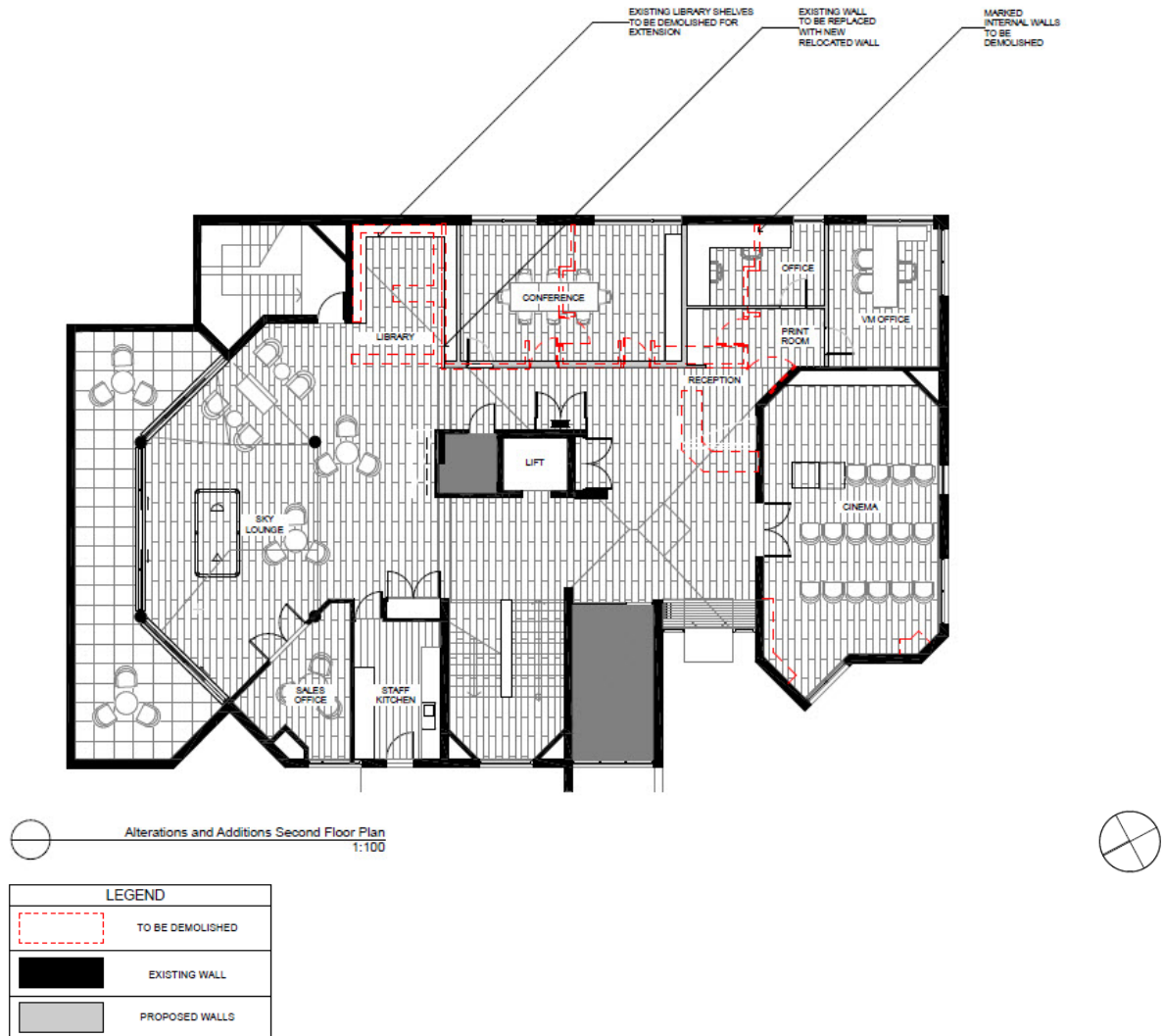


Figure 4 – Plan of proposed Second Floor internal alterations (Source: McNally Architects, A100)

4.0 Statement of environmental effects

4.1 S. 4.15(1)(a) The provisions of any existing or draft environmental planning instrument or development control plan

The following State Environmental Planning Policies, local environmental plan and development control plan are relevant to the DA:

- *EP&A Act*
- *Rural Fires Act 1997*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)*
- *State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)*
- *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*
- Pittwater LEP 2014
- Pittwater 21 Development Control Plan (**Pittwater DCP**).

An assessment of compliance follows.

SEPP 65 and BASIX are not relevant to the development as it comprises minor internal alterations to the existing community centre, with no change to any residential components of the retirement village.

4.1.1 EP&A Act

The DA utilises existing use rights under Division 10 of the EP&A Act.

4.1.2 Rural Fires Act 1997

The site is mapped as being bushfire prone land (Category 1, Category 2 and Buffer as shown on the Bushfire Prone Land Mapping at **Figure 5**), therefore the following legislation and policy framework is relevant:

- *EP&A Act*
- *Rural Fires Act 1997*
- *Rural Fires Regulation 2013*
- *Planning for Bush Fire Protection 2019 (PBP 2019)*
- National Construction Code
- AS 3959-2009 Construction of buildings in bushfire prone areas.

As noted detailed in the Bushfire Advice by EMBER Bushfire Consulting, the proposal does not require an approval under *Rural Fires Act 1997* (therefore the DA is not an Integrated Development under EP&A Act s. 4.46) as internal alterations are considered to be “minor development”. EMBER Bushfire Consulting advises that:

I have thoroughly reviewed all documentation relating to the proposed works and understand that the scope works is for internal alterations and upgrades only. There are no external works proposed.

Under normal circumstances, development proposals to retirement villages in bushfire prone areas require approval through a Bush Fire Safety Authority from the NSW Rural Fire Service, with the proposal assessed under Section 6 Special Fire Protection Purpose (SFPP) developments of PBP 2019.

Section 6.5 Minor development in SFPP facilities, lists a number of development types considered "minor development", which includes internal works.

Section 6.5 state that internal works-

"...does not have any influence on potential bush fire impacts and the bush fire protection of the building. For this reason, the NSW RFS does not consider that a BFSAs is necessary for the development type..."

On this basis a bushfire assessment or supporting report for the proposed internal works is not required.

4.1.3 Codes SEPP

The proposed internal alterations, although very minor, are not able to be carried out as exempt or complying development under the Codes SEPP and a DA is required as explained below:

- **Exempt development:** The proposed internal alterations cannot be carried out as exempt development as they change the configuration of rooms (contrary to the Codes SEPP, Part 2 – Exempt Development Codes, Division 1 - General Exempt Development Code, Subdivision 26 - Minor building alterations (internal), cl. 2.52(b))
- **Complying development:** Development associated with the existing *seniors housing* development may not be carried out as complying development as *seniors housing* is not permissible on the site which is in Zone RU2 and the existing retirement village benefits from existing use rights. Given this, the development does not satisfy the Codes SEPP, Part 1 - General, Division 2 - Exempt and Complying Development, cl. 1.18(1)(b).

4.1.4 Resilience and Hazards SEPP

Chapter 4 – Remediation of land

In accordance with s. 4.6 of the Resilience and Hazards SEPP, a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

No change of use is proposed by the DA and the current use of the land is for a residential purpose confirming that the site is suitable for the proposed development.

4.1.5 Housing SEPP

There are no provisions in the Housing SEPP that would permit *seniors housing* on the site. The repealed *SEPP (Housing for Seniors or People with a Disability) 2004* and earlier versions of the policy included provisions that permitted *seniors housing* on land that adjoins land zoned primarily for urban purposes. It is assumed that Peninsula Gardens was granted consent

(development consent 82/149) pursuant to these earlier provisions. Given the minor nature of the proposed internal alterations, there are no provisions in the Housing SEPP relevant to the DA.

4.1.6 Pittwater LEP 2013

Table 1 summarises the provisions in Pittwater LEP 2014 relevant to the site and notes that the LEP has limited relevance to the DA (see also mapping at **Figure 5**).

Table 1 – Summary of Pittwater LEP 2014

Clause	Provisions	Compliance
2.3 Zoning	<p>Zone RU2 - Rural Landscape</p> <p>2 Permitted without consent Extensive agriculture; Home businesses; Home occupations</p> <p>3 Permitted with consent Agriculture; Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental facilities; Environmental protection works; Farm buildings; Farm stay accommodation; Forestry; Function centres; Home-based child care; Home industries; Industrial retail outlets; Industrial training facilities; Information and education facilities; Landscaping material supplies; Places of public worship; Plant nurseries; Recreation areas; Respite day care centres; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Secondary dwellings; Veterinary hospitals</p> <p>4 Prohibited Any other development not specified in item 2 or 3</p>	<p><i>Seniors housing</i> is prohibited in Zone RU2 under Pittwater LEP 2014 and there are no provisions in the Housing SEPP that override this prohibition. The site benefits from existing use rights.</p>
4.1 Minimum subdivision lot size	20,000m ²	Internal alterations only, no change to lot size
4.3 Height of buildings	8.5m	Internal alterations only, no change to height
7.1 Acid sulfate soils	Class 5	Internal alterations only, no soil disturbance
7.7 Geotechnical hazards	Geotechnical Hazard H1 Geotechnical Hazard H2	Internal alterations only, no soil disturbance
7.6 Biodiversity	Biodiversity	Internal alterations only, no ecological impact

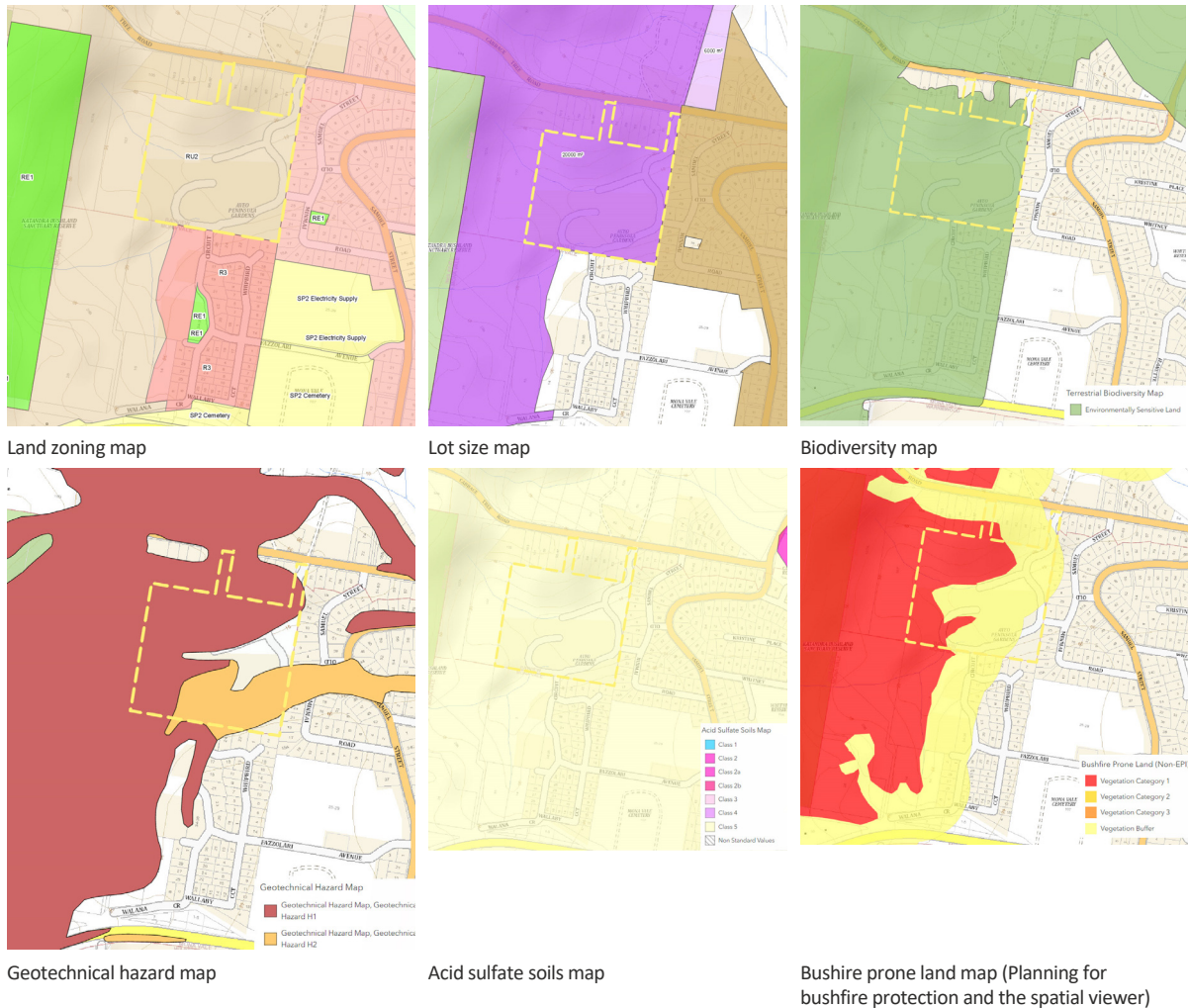


Figure 5 – Pittwater LEP 2014 and other bushfire prone land mapping

4.1.7 Pittwater 21 DCP

The following Pittwater 21 DCP provisions apply to the site, but have limited if any relevance to the proposed community centre internal alterations:

- Part A4 - Localities: A4.14 Warriewood Locality: Internal work only to the existing community centre
- Part C1 – Design Criteria for Residential Development: Internal work only to the existing community centre
- Part D14 – Warriewood Locality: Internal work only to the existing community centre. In any event, the Retirement Village has no direct frontage to Cabbage Tree Road and is therefore not able to be viewed from the public domain.

4.2 S. 4.15(1)(b) Impact on the environment

It is considered that the proposal will have no detrimental environmental, social or economic impacts on the locality as the proposed internal alterations:

- Do not involve any soil disturbance or impact on vegetation
- Retain the existing retirement village use
- Are internal noting that the community centre is located near the centre of the site, well away the site boundaries to the adjoining public domain, bushland and residential uses (see **Figure 2**).

4.3 S. 4.15(1)(c) The suitability of the site for the proposed development

The site is suitable for the proposal, there is no change to the existing activities and no external alterations.

4.4 S. 4.15(1)(d) Any submissions made in accordance with the Act or Regulations and

The DA will be notified/advertised in accordance with Council's notification policy.

4.5 S. 4.15(1)(e) The public interest

The proposal is in the public interest as it complies with the relevant EPIs and DCP and will improve amenity for residents of the Peninsula Gardens Retirement Village.

5.0 Conclusion

The proposed internal alterations will improve amenity for existing residents in the Peninsula Gardens Retirement Village. In light of the minor nature of the proposal and the absence of any adverse environmental effects, the proposed internal alterations are considered worthy of Council's consent.

