

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0154
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<b>Responsible Officer:</b>	Catriona Shirley
<b>Land to be developed (Address):</b>	Lot 1 DP 373531, 1955 Pittwater Road BAYVIEW NSW 2104
<b>Proposed Development:</b>	Demolition works and construction of a seniors housing development
<b>Zoning:</b>	R2 Low Density Residential
<b>Development Permissible:</b>	Yes, under SEPP (Housing for Seniors or People with a Disability) 2004
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	Yes
<b>Owner:</b>	Ian Francis Westaway Jan Elizabeth Westaway J A Westaway & Son Pty Ltd
<b>Applicant:</b>	Ian Francis Westaway Jan Elizabeth Westaway Vaughan Milligan Development Consulting Pty Ltd

<b>Application Lodged:</b>	20/02/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Seniors Living
<b>Notified:</b>	21/09/2019 to 05/10/2019
<b>Advertised:</b>	21/09/2019
<b>Submissions Received:</b>	10
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 2,092,600.00
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### EXECUTIVE SUMMARY

The application seeks consent for demolition works and the construction of a seniors housing development comprising 4 self contained dwellings.

The main issues associated with the assessment of the application relate to the character, design and presentation of the development to Pittwater Road and the manner in which the built form relates to

adjoining and surrounding residential development in the R2 Low Density Residential area.

Whilst the State Policy for seniors housing provides for a form of development that typically has a greater density and scale than the forms of residential development permitted under the PLEP, the proposal is not sufficiently complementary and compatible with the established character and is inconsistent with the desired future character envisaged for the Bayview Locality.

A number of non-compliances with the relevant planning controls contributes to a proposal that is inappropriate and unsuitable for the site. Additionally, the design of the development does not demonstrate sufficient consideration of the design guidelines in the *Seniors Living Policy: Urban Design Guideline for Infill Development*.

The application does not adequately address compliance with the requirements for adequate access to services and facilities, including a connecting footpath from a return bus stop in Pittwater Road at compliant gradients.

The Applicant lodged an appeal in the Land and Environment Court against the Deemed Refusal of the application and as part of the process to seek a resolution of the issues raised by Council, the applicant lodged amended plans.

An assessment of the amended plans reveals the planning, urban design, access to the return bus stop, stormwater, waste and RMS issues have not been resolved.

The proposed development was notified on two occasions and the primary concerns raised were in relation to character, design and built form of the development, excessive bulk, scale and mass of the building, tree removal, insufficient parking, stormwater management, excessive excavation and adverse privacy impacts.

Based on an full assessment of the proposal (as amended), the issues raised by residents are generally concurred with.

Accordingly, due to a number of unresolved matters in relation to access to the return bus stop, character and built form, engineering and waste requirements and the lack of concurrence from the RMS, the application is recommended for refusal.

## **PROPOSED DEVELOPMENT IN DETAIL**

The application (as amended) seeks consent for demolition works and the construction of a seniors housing development comprising 4 self contained dwellings. Specifically, the proposal involves:

- Demolition of the existing dwelling and other structures
- Tree removal
- Excavation and civil works, including construction of new driveway, passing bay and on-site detention system
- Construction of a two storey building comprising of 3 x three bedroom dwellings, 1 x two bedroom dwelling and basement carparking for eight (8) cars
- Construction of pedestrian footpaths to the nearest bus stops in Pittwater Road
- Retaining walls
- New landscaping

## 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 - 7.2 Earthworks  
 Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards  
 Pittwater 21 Development Control Plan - A4.4 Church Point and Bayview Locality  
 Pittwater 21 Development Control Plan - B1.3 Heritage Conservation - General  
 Pittwater 21 Development Control Plan - B3.1 Landslip Hazard  
 Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation  
 Pittwater 21 Development Control Plan - B5.7 Stormwater Management - On-Site Stormwater Detention  
 Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve  
 Pittwater 21 Development Control Plan - B6.2 Internal Driveways  
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - C1.4 Solar Access  
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - C1.7 Private Open Space  
 Pittwater 21 Development Control Plan - C1.9 Adaptable Housing and Accessibility  
 Pittwater 21 Development Control Plan - C1.12 Waste and Recycling Facilities  
 Pittwater 21 Development Control Plan - C1.21 Seniors Housing  
 Pittwater 21 Development Control Plan - C1.23 Eaves  
 Pittwater 21 Development Control Plan - D4.1 Character as viewed from a public place  
 Pittwater 21 Development Control Plan - D4.3 Building colours and materials  
 Pittwater 21 Development Control Plan - D4.6 Side and rear building line  
 Pittwater 21 Development Control Plan - D4.11 Fences - General  
 Pittwater 21 Development Control Plan - D4.13 Construction, Retaining walls, terracing and undercroft areas  
 Pittwater 21 Development Control Plan - D4.14 Scenic Protection Category One Areas

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 373531 , 1955 Pittwater Road BAYVIEW NSW 2104
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment which is legally described as Lot 1 in Deposited Plan 373531 and is known as 1955 Pittwater Road, Bayview. The site is zoned R2 Low Density Residential under the Pittwater Local Environmental Plan 2014 (PLEP 2014).</p> <p>The site is located on the southern side of Pittwater Road and is a large, irregular shaped site with a south-eastern boundary of 43.0m, a south-western boundary of 28.05m, a north-western boundary of 42.7m and a north-eastern street frontage to Pittwater Road of 32.64m. The site has an area of 1296.5m<sup>2</sup>.</p> <p>The site is moderately sloping with an average gradient of 20 degrees. The low point is the northern corner of the site at RL 5.50 and the high point is the southern corner of the site at RL 16.00.</p> <p>The site is within the “Gootechnical Hazard H1” area on the Landslip Map of PLEP 2014, and is in a Sensitive Coastal Location under State Environmental Planning Policy (Coastal Management) 2018.</p> <p>The site currently contains a part one/part two storey dwelling house. Vehicular access to the site is via a concrete driveway from Pittwater Road to an attached garage. The property currently enjoys views to the north and north-east towards the Pittwater Waterway.</p> <p>The area surrounding the site is characterised by predominantly single and two storey dwelling houses. St Lukes Primary School is located nearby to the west and Bayview Anchorage Marina nearby to the east.</p>

Map:





## SITE HISTORY

A search of Council's records has revealed that there are no relevant historical applications for this site.

The land has been used for residential purposes for an extended period of time. There is no history of any other use of the land.

### Prelodement Application?

No Pre-DA meeting was held in relation to the proposed development.

### Current Development Application

The application was lodged with Council on 20 February 2019. Following an initial assessment of the application, the Applicant was advised by letter dated 27 June 2019, that there were significant planning, urban design and engineering concerns in relation to:

- Inadequate details with regard to a continuous path of travel for pedestrians to the nearest shops/services or public bus stops
- The character of the development is inconsistent with the streetscape and desired future character
- Lack of articulation, inadequate "detached-style" appearance and excessive bulk and scale
- Non-compliant side setbacks
- Privacy impacts
- Excessive excavation
- Inadequate landscaping and excessive tree removal
- Inadequate information in regards to RL levels, stormwater management, solar access, driveway levels and works within Councils Road Reserve
- No RMS concurrence for the driveway access onto Pittwater Road

## **Land and Environment Court Appeal**

On 25 July 2019, a Class 1 appeal was filed with the Land and Environment Court of NSW against Councils deemed refusal of the DA.

Since then, there have been two "Without Prejudice" meetings held with the applicant in an attempt to resolve the above issues.

## **Amended Plans**

The applicant submitted amended plans to Council on 18 September, 2019 which included the following amendments:

- Provision of the footpath from the return bus top on the southern side of Pittwater Road
- Increasing the size of the vehicular passing bay in the road reserve
- Battering within the protection zone of tree T3 has been removed
- Revised Landscape Plan
- Additional retaining wall on the eastern edge of the pedestrian access
- Updated stormwater drainage plans
- Increasing the south-eastern side setback to 3.0m
- Changes to the planter box over the garage entry
- Additional solid built form on the terrace areas of the front facade
- Provision of a recessed area within the front facade to address building bulk
- Changes to external wall colours
- Reduction in the roof top terrace area and reduction in the size of the associated planter box

The application was re-notified and re-advertised following the receipt of the amended plans. The notification period ended on 5 October 2019. Details of submissions can be found in the Notification and Submissions section of this report.

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

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

<b>Section 4.15 Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
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 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. A letter was sent to the applicant on 27 June 2019 listing the planning issues and concerns and sought the withdrawal of the application. The applicant advised that the application would not be withdrawn and requested time to submit additional information. Two (2) meetings were held with the Applicant and amended plans were lodged on 18 September 2019.</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) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 DCP and Residents Submissions sections in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the residential seniors housing character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the residential seniors housing nature of the proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The site is generally considered suitable for seniors housing, however that is contingent upon demonstrating that the access requirements to bus stops under SEPP HSPD can be met and to date, the application (despite the submission of additional information) has not demonstrated that the development can satisfy the SEPP. Furthermore, there are remaining concerns in relation to the built form of the development, which has been found to be not sufficiently responsive to the streetscape, the context of the area and amenity of adjoining and surrounding residential properties.</p>
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	<p>See discussion on "Notification &amp; Submissions Received" in this report. In summary, the issues raised in the residents submissions are concurred with and form part of the reasons for recommending refusal of the application.</p>
Section 4.15 (1) (e) – the public interest	<p>This assessment has found the proposal (as amended) to be inconsistent with the relevant planning controls applying to the site and type of development under the Pittwater Local Environment Plan 2014 and Pittwater 21 Development Control Plan.</p> <p>The proposal (as amended) will result in a form of development which will be out of character and will create an undesirable precedent, such that it would undermine the desired future character of the area.</p> <p>The development (as amended) remains excessive in its bulk and scale and is inconsistent with the reasonable expectations of the</p>

Section 4.15 Matters for Consideration'	Comments
	community for this type of development, which should satisfy the applicable planning controls.  In this regard, the development (as amended), is not considered to be in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited 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 10 submission/s from:

Name:	Address:
Mrs Carolyn McFarlane	Po Box 583 MONA VALE NSW 1660
Mr Gillian Lee Batchen	1951 Pittwater Road BAYVIEW NSW 2104
Mr David Semple Brocklehurst Mrs Beverly Jane Ann Brocklehurst	62 Alexandra Crescent BAYVIEW NSW 2104
Mr Leonard William Baillie	58 Alexandra Crescent BAYVIEW NSW 2104
Mr Peter William Gorian Ms Toni Capel	60 Alexandra Crescent BAYVIEW NSW 2104
Mr Jack Russell	Po Box 583 MONA VALE NSW 1660
Mr John Robert Thirlwell	1963 Pittwater Road BAYVIEW NSW 2104
Mrs Noela Margaret Elsworth	30/7 Bungan Street MONA VALE NSW 2103
Mr John Barry Timothy Byrne	1943 Pittwater Road BAYVIEW NSW 2104
Mr Robert Leon Smith Mrs Robin Laurel Smith	1957 Pittwater Road BAYVIEW NSW 2104

## First Notification - Original Plans (6.3.2019 - 23.3.2019)

The following issues were raised in the submissions to the original notification:

- Accessibility for the future residents of the development to bus stops
- Front entrance is a poor design
- Inadequate parking is provided

- Overdevelopment of the site
- Out of Character with the area and excessive bulk and scale
- Overshadowing
- Privacy impacts
- View loss as a result of the proposed trees to be planted
- Stormwater issues
- Obtrusive lighting
- Heritage issues

## **Second Notification - Amended Plans (21.9.2019 - 5.10.2019)**

The following additional issues were raised in the submissions to the notification of the amended plans:

- Demolition concerns
- Access to adjoining properties during construction
- Disruption to telecommunications
- Traffic safety for nearby school children
- Compliance with height and excessive height
- Excessive noise
- Impact on stormwater easement

The matters raised within the total submissions received are addressed as follows:

- ***Inadequate provision of access to the nearest return bus stop on the southern side of Pittwater Road***

Comment:

The applicant provided a footpath survey from a registered surveyor, engineers plans and covering report from a Civil Engineer for a new footpath linking the subject site to the return bus stop on the southern side of Pittwater Road (front of St Lukes Grammar School). Council's Development Engineers have reviewed the documentation and there is still insufficient information (details of grades and long-sections) to demonstrate that the footpath will satisfy the requirements of SEPP HSPD.

Therefore, the issue warrants refusal of the application.

- ***Inadequate access for people with a disability from the front entrance of the site into the building due to the grade of the entry path***

Comment:

The front entrance path is well defined and accessible for pedestrian and wheelchair access as demonstrated in applicants Access Report. The entry/foyer area has direct access from the basement carpark stairs and lift. In addition to this, the development serves only 4 units (potentially with also an intercom service), the entry location and arrangement is considered appropriate for the development.

The proposal meets the access requirements under clause 41 of the SEPP (HSPD) and does not warrant refusal of the application on this basis.

- ***Lack of visitor car parking available on the subject site and increased traffic***

Comment:

The proposal is for four (4) self-contained dwellings for aged and disabled persons and the



amended proposal provides for eight (8) carparking spaces (1 extra space compared to the 7 spaces in the original plans) and no visitor car parking space(s). SEPP HSPD does not require visitor car parking spaces if the proposal is for less than eight (8) dwellings.

A detailed traffic and parking report was submitted with the application, prepared by Traffix Traffic and Transport Planners, dated 15 February 2019. That report assesses traffic and parking impacts and the net estimated increase is 0.4 vehicle trips during peak hour, based on the NSW Roads and Maritime Service (RMS) Guidelines. Referrals were also made to Council's Traffic Engineer and the RMS and no objections were raised in relation to the proposal on traffic grounds, with the exception that the RMS are seeking a passing bay wholly within the subject site.

The proposal complies with the parking rates specified in Division 4 of the SEPP, therefore this issue does not have any determining weight.

- ***The built form and presentation to the streetscape is unsatisfactory and the building is incompatible with the surrounding character of the area and the proposal is an over-development of the site***

Comment:

The proposal (as amended) has a singular/monolithic built form that exhibits excessive bulk, scale and mass that is inconsistent with the built form of low-density "detached" style housing in the surrounding area. It has been assessed that the proposed singular/monolithic building, despite the minor amendments made, still does not provide adequate articulation and modulation in the form of physical breaks in the building to provide for "pavilions" or "modules", or any deeply recessed areas such that it would read as distinctly separate built forms across the width of the building as it presents to the street.

The design does not reflect the low density detached style prevalent in the surrounding area and does not attempt to minimise the visual impact it will have on the streetscape. Therefore, the proposal (as amended) remains inconsistent with the Neighbourhood Amenity and Streetscape requirements of clause 33 (Design Principals) outlined within Division 2 of SEPP HSPD. Furthermore, the proposal is inconsistent with the character as described in the Church Point and Bayview Locality Statement in clause D4.4 of Pittwater 21 DCP.

Therefore, it is agreed that the amended proposal does satisfy the character provisions of SEPP HSPD and Pittwater 21 DCP and warrants refusal of the application for these reasons.

- ***Excessive bulk and scale of the proposal and would cause unreasonable overshadowing to the south-eastern neighbouring property***

Comment:

A submission was received from the adjoining property owners at No.1953 Riverview Road, raising concerns in relation to overshadowing as a result of the proposed built form and landscape treatment. As discussed in the section concerning Clause C1.4 of P21 DCP, a reasonable solar access outcome is considered to be achievable for adjoining sites. It is however recognised that design amendments to increase the side setbacks and decrease the bulk and scale would provide improvements in solar access for neighbouring properties. The amended plans provide for a minor increase in side setbacks.

Therefore, as the proposal meets the requirements of clause C1.4 of P21 DCP in relation to solar access, the concerns raised do not warrant refusal of the application on this basis.

- ***The proposal will create visual privacy and overlooking impacts to neighbouring properties***

Comment:

Concern was raised with the original scheme regarding potential overlooking into the private open space areas of surrounding properties. Specifically, the north-western and south-eastern windows, the front terraces and the roof terrace associated with all four (4) units have the ability to overlook surrounding properties.

As assessed under clause C1.5 Visual Privacy in this report, the adjoining properties at No.1953 and No.1957 Pittwater Road would be directly overlooked as a result of the proposed development from the windows and terrace areas, and there are no privacy mitigation measures proposed. As a result, it is agreed that a more appropriate design response is required in order to minimise visual privacy impacts associated with the proposed development.

The amended scheme involves no changes to the south-east elevation, however, conditions could be imposed to address the privacy concerns of 1953 Pittwater Road. The north-east elevation has been amended to reduce the area of the top floor terrace and planter box, which will improve the privacy outcome for the residents at 1957 Pittwater Road.

Therefore, the amended proposal has addressed the privacy concerns and does not warrant refusal of the application.

- ***Proposed replacement canopy trees will be excessive in height and will impact view lines from the neighbouring properties to the rear of the subject site***

Comment:

There is no view loss created by the built form of the proposed development as indicated by the height poles onsite. The concern is in regards to the mature height of the proposed trees to be planted as part of the new landscape treatment of the development site. The amended landscape plan shows there are 9 trees in the 15.0m to 30.0m mature height range to be planted onsite. This is consistent with the objectives and requirements of the Pittwater 21 DCP to provide for the maintenance of the areas tree canopy.

- ***Significant trees to be removed as a result of the development***

Comment:

A number of trees are earmarked for removal to accommodate the building footprint, driveway infrastructure, access paths and retaining walls.

Council's Landscape Officer and Biodiversity Officer have reviewed the proposal and have raised no objections to the tree removals and the subsequent proposed landscaping (Refer to "Referrals" section in this report).

Therefore, the application does not warrant refusal on this basis.

- ***The proposal will create additional stormwater impacts***

Comment:

Detailed stormwater plans, including an on-site detention (OSD) system design were provided with the application. Council's Development Engineers have reviewed the plans and cannot support the proposal due to insufficient information in regards to stormwater for the development. The applicant has still not provided the Hydraulic Model "Drains" for analysis, which is a vital component of the stormwater assessment.

Therefore, the stormwater concerns are concurred with and warrant refusal of the application for



this reason.

- ***Amenity impacts from obtrusive lighting or any solar panels or rooftop elements being constructed on the proposed roof***

Comment:

There is no additional lighting or additional rooftop elements as part of the proposal. Therefore, there will be no additional amenity impacts to neighbouring properties as a result of these elements.

Therefore, the issue does not warrant refusal of the application on this basis.

- ***The proposals impact on the nearby Heritage listed "Maybanke House (Stoneleigh) and Plaque"***

Comment:

A submission was received raising concerns in relation to impacts the proposal may have on the heritage significance of a nearby dwelling house. In response to these concerns, the application was referred to Council's Heritage Officer for a response. Council's Heritage Officer confirmed that there are no concerns with the proposal impacting on the heritage listed dwelling house.

Therefore, this issue does not warrant refusal of the application on this basis.

- ***Demolition concerns***

Comment:

Issues in relation to asbestos, dust, noise and truck movements can be dealt with by way of conditions of consent.

- ***Access to adjoining properties during construction***

Comment:

Issues in relation to maintaining safe and available access can be dealt with by way of conditions of consent.

- ***Disruption to telecommunications***

Comment:

Issues in relation to there being no disruption to telephone and internet access are a matter for the landowners and the providers.

- ***Traffic safety for nearby school children***

Comment:

The traffic experts have reviewed the proposed development and the traffic associated with a net increase of 3 dwellings on the subject site has not been raised as a likely to significantly impact for existing traffic safety for children using the area from St Lukes Grammar School.

- ***Compliance with height and excessive height***

Comment:

The proposal complies with the building height control stipulated under SEPP HSPD. However, there are concerns related to height, including visual bulk and scale and character, which are detailed elsewhere in this report.

- **Excessive noise**

Comment:

The noise associated with a net increase of 3 dwellings on the subject site is not likely to have a significantly impact on surrounding amenity. Such issues can be dealt with by way of conditions of consent in relation to plant and equipment. Resident noise is a Police matter.

- **Impact on stormwater easement**

Comment:

A check of Council's records reveals there is a private stormwater easement affecting the adjoining property at 1953 Pittwater Road and the excavation for the proposed development is in close proximity to the common boundary. This matter can be addressed by way of conditions in relation to a dilapidation report on the stormwater easement and dwelling on the adjoining property.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	There is no objection to the proposed demolition of existing structures and the construction of a multi dwelling development comprising 4 dwellings pursuant to SEPP (Housing for Seniors or People with a Disability) 2004, subject to standard conditions of consent.
Landscape Officer	<p>Following the submission of amended plans, and demonstrated adjustments to the site planning layout, the proposal in terms of landscape outcomes is acceptable, subject to the retention and protection of nominated trees and the completion of landscape works as conditioned.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> <li>• <i>B4.22 Preservation of Trees and Bushland Vegetation</i></li> <li>• <i>C1.1 Landscaping</i></li> <li>• <i>C1.21 Seniors Housing</i></li> <li>• <i>D4 Church Point and Bayview Locality</i></li> </ul> <p>A Landscape Plan is provided and is supported, subject to conditions for additional canopy tree planting to satisfy Pittwater 21 DCP landscape controls.</p> <p>An Arboricultural Impact Assessment is provided, and conditions of consent shall be applied in accordance with the recommendations of the report, including permitted tree removal and requirement for tree protection measures.</p>
NECC (Bushland and	The development does not impact on area mapped as native

Internal Referral Body	Comments
Biodiversity)	vegetation, is not part of Councils Biodiversity layer and does not trigger the Biodiversity Conservation Act. Approved without conditions
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.</p> <p><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of <i>Coastal Management Act 2016</i>.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018</b> As the subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is also applicable to the proposed development.</p> <p>The subject site has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps but not been included on the Coastal Vulnerability Area Map under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u></p> <p>As assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Vaughan Milligan Development Consulting Pty. Ltd dated February 2019 and Council accepts the assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018</p> <p>.</p> <p><b>Pittwater LEP 2014 and Pittwater 21 DCP</b></p> <p>There have been no issues identified, and as such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP. .</p>
NECC (Development Engineering)	As a result of the submitted amended plans the revised design does not meet the requirements of the Roads and Maritime Services (RMS)

Internal Referral Body	Comments
	<p>requirements. It is noted that Waste Services do not support the proposal with respect to the position of the bin room, and any amendment of the location of the bin room with respect to the boundary is to be shown on the civil drawings.</p> <p>The applicant's Civil Engineer has included details for the provision of kerb and gutter along the frontage of the site. The design also includes a footpath which will not be required as this footpath will not link to any existing footpath to the east of the site. This footpath is to be deleted as part of any future amendment to the application.</p> <p>The submitted revised footpath plan has been reviewed and there is no long section provided for the proposal up to the existing bus stop on the southern side of Pittwater Rd, indicating the design grades for the footpath. As the SEPP has design requirements for this path it is essential that this information is provided for assessment and for confirmation that the design complies with the SEPP.</p> <p>The hydraulic model 'DRAINS' has yet to submitted to Council.</p> <p>As a result, the Development Engineers cannot support the application due to insufficient information to address Clauses B5.7, B6.1 and B6.2 of Pittwater 21 DCP 2014 and Clause 26 of SEPP (HSPD) 2014.</p>
NECC (Riparian Lands and Creeks)	<p>The applicant has provided a Stormwater Management Plan that outlines the proposed treatment measures to achieve compliance with Pittwater 21 DCP 5.9 and 5.10 and with the SEPP (Coastal Management) 2018 (Division 3 Coastal environment area 13 (1) (c)).</p> <p>While the appropriate measures are included on the detail plan, they are not indicated on the layout plan. The typical pollution control pit D2 must be incorporated into the boundary/junction pit currently indicated as junction pit D3. The typical planter box detail shown as C2 must be indicated on the layout plan, assumedly at the location of C3. These measures combined with the screen in the OSD are considered to meet the requirements of the DCP and the SEPP.</p> <p>The updated stormwater management plan must be provided to the certifying authority prior to construction certificate.</p> <p>A sediment and erosion control plan must be prepared and submitted prior to construction certificate. Sediment and erosion controls must be installed prior to any work on site and maintained until groundcover is re-established.</p> <p>This application is recommended for approval with subject to conditions.</p>
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as it is within proximity of a heritage item

Internal Referral Body	Comments		
	<b><i>Maybanke House ('Stoneleigh') and plaque</i></b> - 1945 Pittwater Road, Bayview		
	Details of heritage items affected		
	Details of the item as contained within the Pittwater heritage inventory:		
	<u>Statement of significance:</u> This house, built at 1945 Pittwater Road, Bayview, in 1901 is historically significant for its association with the early development of Bayview and with the Australian feminist and writer Maybanke Anderson. Maybanke Anderson wrote the first history of Pittwater and was a passionate educator and feminist. The plaque is a tribute to Maybanke and the adjacent cove named after her. For this reason, both the house and the stone boulder mount and plaque at 1945 Pittwater Road, Bayview are socially significant for the local community. The house offers views to the water.		
	<u>Physical description:</u> The house is located on a steep sloped site covered with trees and luxuriant vegetation with scenic views over Pittwater. It is a two-storey sandstone cottage with a tiled roof and veranda on the east and north sides. The house has a terrazzo floor featuring Australian animals and birds		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
RAIA Register of 20th Century Buildings of Significance	No		
Other	N/A		
Consideration of Application			
The proposal seeks consent for the construction of a seniors living development. The heritage item is located to the south of the site, across two properties. The heritage item is set back further from the street than the adjoining properties due to it being on a rear battle-axe lot. This larger setback gives it a higher elevation than other properties that front Pittwater Road. Given the change in elevation and the spatial separation, impacts upon the heritage item are minimal.			

Internal Referral Body	Comments
	<p>Heritage raises no concerns with the proposal and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>
Strategic and Place Planning (Urban Design)	<p>The proposed seniors housing development cannot be supported for the following reasons:</p> <p><b>COMMENTS ON AMENDED PLANS (24/09/2019)</b></p> <p>Following two meetings with the Applicant, it was discussed how the built form might better address issues of bulk and scale, in particular to the northern elevation and street address.</p> <p>Of particular note was the recommendation to further articulate and modulate the northern elevation by way of separation into two modules with a full height vertical separation of 3.0 metres between the eastern and western modules.</p> <p>The amended drawings have reduced this separation niche to less than what was presented in the last without prejudice meeting held on 9 August 2019. Our recommendation for the provision of a 3.0 metre wide niche which steps back 3 metres into the building would provide adequate 'perceived' separation whilst not encroaching too much into the living spaces of the units.</p> <p>As such the proposal in its current form cannot be supported.</p> <p><b>COMMENTS ON ORIGINAL PLANS</b></p> <p><b>1. SEPP Housing For Seniors or People with a Disability</b></p> <p><b>2 Aims of Policy</b></p> <p>(1) <i>This Policy aims to encourage the provision of housing (including residential care facilities) that will:</i></p> <p>(a) <i>increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and</i></p> <p>(b) <i>make efficient use of existing infrastructure and services, and</i></p> <p>(c) <i>be of good design.</i></p> <p>(2) <i>These aims will be achieved by:</i></p> <p>(a) <i>setting aside local planning controls that would prevent the</i></p>

Internal Referral Body	Comments
	<p><i>development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and</i></p> <p><i>(b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and</i></p> <p><i>Part 3 – Design Requirements</i>  <i>Division 1 General</i>  <i>30 Site Analysis</i>  <i>33 Neighbourhood Amenity and Streetscape</i>  <i>34 Visual and Acoustic Privacy</i>  <i>35 Solar Access and Design for Climate</i></p> <p><u>RESPONSE</u>  The proposed development does not meet some of the basic design requirements. The planning demonstrates an over development of the site with an extensive footprint, excessive cut and excavation and reduced internal site amenity.</p> <p><i>Clause 33 Neighbourhood amenity and streetscape</i></p> <p><i>The proposed development should:</i>  <i>(a) recognise the desirable elements of the location’s current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area,</i>  <i>(c) maintain reasonable neighbourhood amenity and appropriate residential character by:</i>  <i>(i) providing building setbacks to reduce bulk and overshadowing, and</i>  <i>(ii) using building form and siting that relates to the site’s land form, and</i>  <i>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</i>  <i>(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</i></p> <p><u>RESPONSE</u>  The building does not represent core quality and identity values of the desired future character of the Church Point Bayview Locality.</p> <p>Central Void/Niche Facade  Following two previous 'without prejudice' meetings it was discussed how the built form might better address issues of bulk and scale, in particular to the northern elevation and street address.</p> <p>Of particular note was the recommendation to further articulate and modulate the northern elevation by way of separation to the two modules with a full height vertical separation of a minimum of 3 metres between the eastern and western modules.</p> <p>The drawings submitted for DA have reduced this separation niche to less than what was presented in the last without prejudice meeting</p>



Internal Referral Body	Comments
	<p>held on 9 August 2019. Our recommendation for the provision of a 3 metre wide niche which steps back 3 metres into the building would provide adequate 'perceived' separation whilst not encroaching too much into the living spaces of the units.</p> <p>As such the proposal in its current form cannot be supported.</p> <p><b><i>Desired Future Character Church Point and Bayview Locality</i></b>  <i>The Church Point and Bayview locality will remain a low-density residential area with dwelling houses a maximum of two storeys in any one place in a natural landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on lowlands in the locality on land that has less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Retail, community and recreational facilities will serve the community.</i></p> <p><b><u>RESPONSE</u></b>  It is assessed that the development, as previously outlined in this response represents an excessive style of development. The low-density residential area with dwelling house of no more than two storeys is the predominant character. The proposed development does not meet the desired future character objectives.</p> <p>A view analysis from prominent locations; Scotland Island and Bilgola Plateau have not been addressed in the application and as such is not supported.</p> <p><b><i>Clause 34 Visual and acoustic privacy</i></b>  <i>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</i>  <i>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</i>  <i>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</i></p> <p><b><u>RESPONSE</u></b>  It is noted the location of units fronting the Pittwater Road elevation will pose potential acoustic, amenity and pollution issues. Additionally, it is noted that the internal planning locates all the bedrooms to this elevation. Bedrooms are located close to the driveway and basement parking. Visual and acoustic privacy and amenity may be an issue for the neighbouring low rise residential properties.</p> <p><b><i>2. SENIORS LIVING POLICY : Urban Design Guideline for Infill Housing 2004</i></b></p> <p><b><i>2. Site Planning and Design (page 6)</i></b></p>

Internal Referral Body	Comments
	<p><i>Objectives</i>  <i>- To minimise the impact of new development on neighbourhood character.</i></p> <p><u>RESPONSE</u>  The opportunity to break down the built form into smaller blocks across the site with courtyards and internal landscape treatments that optimise orientation, pedestrian amenity, wayfinding and environmental conditions should be further explored. The distribution of two double storey blocks carefully sited across the site would offer the opportunity to comply with some of the design quality principles and recommendations in the SEPP Seniors Living Policy as follows ;</p> <ul style="list-style-type: none"> <li>• Site Planning to optimise solar gain and natural ventilation</li> <li>• Fine grain approach to the pedestrian ground plane and wayfinding across the site</li> <li>• Opportunity for internal courtyard gardens and pedestrian amenity at the ground level to support the recommended individualisation of the blocks that have distinct identity</li> <li>• Reduce the impacts on the existing streetscape (adjacent R1 low rise residential)</li> </ul> <p><i>4. Impacts on Neighbours (page 10)</i>  <i>Objectives</i>  <i>- to minimise impacts on the privacy and amenity of existing neighbouring dwellings</i>  <i>- to retain neighbours' views and outlook to existing mature planting and tree canopy</i>  <i>- to provide adequate building separation</i></p> <p><i>Design Principles and Better Practice</i>  • <i>Reduce the visual bulk of roof forms by breaking down the roof into smaller elements rather than having a single uninterrupted roof structure</i>  • <i>Design the relationship between buildings and open space to be consistent with the existing block patterns</i></p> <p><u>RESPONSE</u>  As previously discussed, the proposed development does not demonstrate a relationship between buildings and open space. Breaking down the building form to allow for ground level courtyard and open space to with smaller two storey pavilion type developments is recommended to address the surrounding context and natural bushland setting. The current development is more reflective of a multi residential flat building. A less intense development that has relationship between building and open space is recommended.</p> <p><i>5. Internal Site Amenity (page 12)</i>  <i>Design Principles and better practice</i>  <i>In villa or townhouse style developments provide dwellings with a</i></p>

Internal Referral Body	Comments
	<p><i>sense of individual identity through building articulation, roof form and other architectural elements;</i></p> <ul style="list-style-type: none"> <li><i>- Provide buffer spaces and or barriers between dwelling and driveways, or between dwellings and communal areas</i></li> <li><i>- Use trees, vegetation and fencing or screening devices to establish curtilages for individual dwellings, . . .</i></li> </ul> <p><b>RESPONSE</b></p> <p>As noted in the comments above (2. Site Planning and Design) the internal site amenity should be further considered in the planning strategy to provide dwellings that give a sense of individual identity and amenity. This can be achieved with a smaller scale distribution of buildings across the site arranged so as to provide individual identity and wayfinding, more outdoor ground plane pedestrian friendly green courtyards and landscaping that filters through the site and buffers the adjacent residential development from the condition of major arterial road. Breaking down the single monolithic built form of into two smaller two level pavilion style buildings separated internally with green planting and buffers will assist to achieve this.</p> <p><b>3A Site Analysis</b></p> <p>Insufficient site analysis details accompany the documentation and as such the development cannot be adequately assessed.</p> <p><b>3D Communal and Open Public Space</b></p> <p>There is no provision of communal open space.</p> <p><b>4F Common Circulation and spaces</b></p> <p><b>Objective 4F-1</b></p> <p><i>Common circulation spaces achieve good amenity and properly service the number of apartments</i></p> <p><b>Design Guidance</b></p> <p><i>Longer corridors greater than 12 metres in length from the lift core should be articulated. Design solutions may include;</i></p> <ul style="list-style-type: none"> <li><i>• A series of foyer areas with windows and spaces for seating</i></li> <li><i>• Wider areas at apartment entry doors and varied ceiling heights</i></li> </ul> <p><b>RESPONSE</b></p> <p>The amenity of the underground corridor and passages as the main pedestrian thoroughfare/tunnel does not represent a good design outcome for residents, with no access to daylight and a less than optimum response to CPTED principles.</p> <p><b>3F Visual Privacy</b></p> <p><b>RESPONSE</b></p> <p>The planning arrangement places bathrooms and bedrooms located in the north eastern zone of the building. Bedrooms and bathrooms are not optimally oriented in the planning arrangements with full height glazing presenting potential privacy issues to the occupants of the units.</p>

Internal Referral Body	Comments
	<p>There are visual privacy issues with the windows on the western and eastern elevations which show no indication of privacy screening or other measures to mitigate overlooking onto neighbouring properties on both the north and south boundaries of the site.</p> <p><i>4C Ceiling Height</i></p> <p>Section AA on DA-10 shows insufficient floor to floor dimensions. Whilst the floor to ceiling dimensions show 2700 clear the 200 mm slab dimensions is inadequate to accommodate for concealed ceiling in addition to any services, ceiling lining and battening build up. The ADG recommends minimum 3100mm floor to floor comprising of 2700mm with 400mm allocated for slab and services zone. Refer Figure 4C.1 on page 86 and objectives on page 87 of the ADG.</p> <p>.</p> <p><b>4. PITTWATER 21 DCP</b></p> <p><i>C1.21 Seniors Housing</i></p> <p><i>Outcomes</i></p> <ul style="list-style-type: none"> <li>• <i>Visual bulk and scale of development is limited. (En, S)</i></li> <li>• <i>Restricted footprint of development on site. (En)</i></li> <li>• <i>Retention of the natural vegetation and facilitate planting of additional landscaping where possible. (En)</i></li> <li>• <i>Achieve desired future character of the locality. (En, S)</i></li> <li>• <i>Social mix of residents in the neighbourhood. (S)</i></li> <li>• <i>Minimal cumulative impact from State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. (S)</i></li> </ul> <p>Seniors housing developed in accordance with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, outside the R3 Medium Density Residential and B4 Mixed Use zones shall:</p> <ul style="list-style-type: none"> <li>• <i>Be in keeping with the development of the surrounding area in regard to bulk, building height, scale and character.</i></li> <li>• <i>Not result in such an accumulation of Seniors Housing developments to create a dominant social type in the surrounding neighbourhood.</i></li> <li>• <i>Not result in such an accumulation of Seniors Housing developments to create a dominant 'residential flat building' appearance in the neighbourhood.</i></li> </ul> <p><i>The Desired Future Character for each locality can be found in Part A4 of this DCP.</i></p> <p><i>Information to be shown on the Development Drawings</i></p> <ul style="list-style-type: none"> <li>• <i>A locality and neighbourhood plan that satisfactorily addresses the minimum site analysis criteria of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, and identifies</i></li> </ul>

Internal Referral Body	Comments
	<p><i>the elements contributing to the desired future character of the locality.</i></p> <p><i>Information to be included in the Statement of Environmental Effects</i></p> <p><i>An analysis of the proposed development demonstrating that: -</i></p> <ul style="list-style-type: none"> <li><i>• The visual bulk and scale of the development fits in with surrounding development</i></li> <li><i>• The development contributes positively to the Desired Future Character of the locality</i></li> <li><i>• The footprint of the development on the site has been restricted and has responded to significant vegetation and other site constraints</i></li> <li><i>• The retention of natural vegetation and the planting of additional landscaping can be achieved</i></li> </ul> <p><i>As part of the Statement of Environmental Effects, applicants shall:</i></p> <ul style="list-style-type: none"> <li><i>• include an assessment of the cumulative impact of the proposal, and</i></li> <li><i>• demonstrate that the potential cumulative impact of the development has been minimised, and</i></li> <li><i>• make reference to reports prepared by suitably qualified professionals such as urban designers and social planners.</i></li> </ul> <p><b>RESPONSE</b></p> <p>The visual bulk and scale of the development is not in keeping with Low density residential nature of the surrounding environment. The development will not have a positive impact on the desired future character of the locality.</p> <p>The excavation and extents of the proposed footprint of the development is excessive.</p> <p>The potential to break down the impacts of a perceived 3 storey development should consider breaking down of the built form into smaller double storey pavilion type development on the site.</p>
Traffic Engineer	<p><b>Access</b></p> <p>The access driveway must be designed in accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking).</p> <p>Due to both horizontal and vertical sight distances restrictions from the curved alignment and retaining wall, a minimum 5.5m wide driveway is required to reduce vehicular conflict.</p> <p>The development proposes a minimum 3.5m driveway width and traffic signal system, with detailed design undertaken prior to the release of the Construction Certificate.</p>

Internal Referral Body	Comments
	<p>Due to the topography of the site and car park layout it does not appear possible for a signal system to safely manage and provide adequate advanced warning for drivers entering the driveway from both directions off Pittwater Road without significant visual impact to the area or provision of a passing bay.</p> <p>A driveway width which does not allow for two vehicles to pass on the driveway, could result in reversing movements onto Pittwater Road is considered to be an arterial road, with only one traffic lane in each direction.</p> <p>It is noted that the access concerns have also been raised by the Roads &amp; Maritime Services (RMS), as Pittwater Road is a classified Regional Road. Still awaiting comments from RMS to determine suitability of the proposed driveway design.</p> <p><b>Pedestrian</b></p> <p>The plans show a pedestrian path to the entry of the property but does not provide any provision of a footpath across the full frontage and access to the existing bus stops, as required by the SEPP.</p> <p>Kerb and gutter must also be provided on Pittwater Road.</p> <p><b>Parking</b></p> <p>Council's DCP requires visitor parking at a rate of 1 space per 3 dwellings, which would require 2 visitor spaces. The development does not provide any visitor car space, and the Applicant has indicated that there is available on-street parking in the area. The proposal should therefore incorporate indented parking on the frontage to the development as part of the required pedestrian infrastructure and kerb and gutter.</p> <p>Transport Network cannot support the proposed application in its current form due to the issues raised and insufficient information provided.</p>
Waste Officer	<p>The amended plans have not addressed Council's concerns in relation to waste management. The proposal does not comply with Council requirements in that the bin storage facility is in the basement. This location is unacceptable to Council as the bin storage must be no</p>



Internal Referral Body	Comments
	<p>more than 6.5 metres from the property boundary and access must be via a separate pathway. Utilisation of the driveway for access is not acceptable.</p> <p>As a result the proposal cannot be supported. The bin storage facility is to be relocated and amended plans are to be submitted to Council that demonstrate that the bin room complies with Council's requirements found in the Waste Management Guidelines.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Concurrence – NSW Roads and Maritime Services (s100 – Dev. on proposed classified road)	<p>The Development Application was referred to the Roads and Maritime Services (RMS) as a vehicle access point of the proposal is to a state road network and therefore, concurrence under Section 138 of the Roads Act 1993 is required.</p> <p>The RMS referral response received on the 18 March was as follows:</p> <p><i>"Roads and Maritime has reviewed the submitted documentation and request the following information for further assessment:</i></p> <ul style="list-style-type: none"> <li><i>The proposed driveway needs to be amended to be in accordance with AS 2890.1- 2004 (Parking Facilities, Part 1: Off-street car parking). The driveway shall be a minimum of 5.5 metres in width for a minimum distance of 6 metres from the property boundary. Plans are to be submitted to Roads and Maritime reflecting this amendment.</i></li> <li><i>The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. The swept paths are to show that vehicles can enter and exit the site simultaneously. In this regard, a plan shall be submitted to, which shows that the proposed development complies with this requirement. The road boundary and line markings are to be displayed on all future swept path plans."</i></li> </ul>

## 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. Conditions are included to ensure the safe handling and appropriate disposal of any potential asbestos or lead based paint material if uncovered during demolition works.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 991214M and 24 January 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 991214M and 24 January 2019).

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

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

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 application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) and is for in-fill self-care housing, which is defined as follows:

***"in-fill self-care housing"*** is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

**Policy Note:** The concept of seniors housing is intended to be a shorthand phrase encompassing both housing for seniors and for people with a disability.

## 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:

(a) The proposal includes 3 x 3 bedroom apartments, and 1 x 2 bedroom apartment for self-contained living. The development will increase the supply of seniors housing in the Northern Beaches Council area and has been designed to meet the demand for independent living for seniors as "in-fill self-care housing". The design of the building is required to comply with *Schedule 3 Standards concerning accessibility and usability for hostels and self-contained dwellings*. Conditions of consent could be included to ensure all self-contained units are constructed to meet these standards under the SEPP, should the Panel consider the application is worthy of approval.

b) The proposal is within an established low density residential area with access to public transport (buses) and a main road to enable travel to the central business areas of Mona Vale, Dee Why, Brookvale, Frenchs Forest, Manly and the city. Existing infrastructure including sewer and reticulated water, electricity and telecommunication's services are all available to the site.

c) The development comprises a single two storey building containing one (1) apartment on the lower ground floor level, two (2) apartment on the ground floor level and one (1) apartment on the first floor level, totalling 4 dwellings. The structures sit within a landscaped setting with basement car parking accessed from Pittwater Road. The proposal fails to comply with specific built form controls contained within the SEPP and is not considered to be consistent with general detached style character of the area.

## **Chapter 2 – Key Concepts**

Comment:

The proposal involves 4 x self-contained dwellings as defined in Clause 13 of the SEPP.

Key concepts of SEPP HSPD include:

- *The definition of "Seniors" as persons aged 55 or more years, including a facility of residential care or those eligible for aged housing provided by a social housing provider.*
- *The provision of purpose built housing for "people with a disability" that includes persons with long term or permanent impairment, limitation or activity restrictions that affect their capacity to participate in everyday life.*
- *The provision of purpose built "Seniors housing" with the intent that such housing includes a residential care facility, a hostel, a group of self-contained dwellings or a combination of these, but not a hospital.*

The proposal satisfies this element of the SEPP HSPD in that the development is for purpose built self-contained dwellings that are for self-care accommodation of seniors or persons with a disability.

## **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 people which can occupy the development. Should the application be approved, such a condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
<b>PART 2 - Site Related Requirements</b>			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	<p>The site has access via a public transport (Route 156) bus service to the central business area of Mona Vale. This local centre contains a range of services for banking and finance, shopping and groceries, postal and government offices, community services, medical services and recreation facilities.</p> <p>The footpath design for pedestrian access from the return bus stop on the southern side of Pittwater Road (in front of St Lukes Grammar School) has not provided sufficient information on gradients and longitudinal sections to confirm compliance with the SEPP.</p>	<b>Does not comply</b>
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.	<p>The site is within 150.0m of a public transport (Route 156) bus service which would take residents to a shopping centre (Mona Vale Commercial Centre) with appropriate facilities.</p> <p>It is noted that further regular services can be obtained from Mona Vale Commercial Centre to Narrabeen, Collaroy, Dee Why, Warringah Mall, Manly and through to the CBD.</p> <p>The footpath design for pedestrian access from the return bus stop on the southern side of Pittwater Road (in front of St Lukes Grammar School) has not provided sufficient information on gradients and longitudinal sections to confirm compliance with the SEPP.</p>	<b>Does not comply for return journey bus stop</b>
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	Not applicable	N/A
28	Consideration is given to the suitability of the site with regard to the availability of reticulated	Reticulated water and sewerage is available. The proposal is subject to Sydney Water requirements via a "Section 73 Certificate". This issue is addressed by	Complies

Development Criteria			
Clause	Requirement	Proposal	Complies
	water and sewerage infrastructure.	conditions.	
29	<p>The consent authority to consider certain site compatibility criteria for development applications to which Clause 24 does not apply having regard to the following criteria specified in Clauses 25 (5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and 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 (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>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>The site currently contains a single dwelling house and the site sits within an area which is characterised as a low density residential environment. An increase in side setbacks and greater articulation/modulation would provide a more appropriate design with a landscape setting that could screen and soften the built form, which would achieve greater compliance with this clause.</p> <p>An OSD system will be installed as part of the development and connected to Councils infrastructure in Pittwater Road to manage stormwater flow. Off street carparking is provided within the basement level for each dwelling. However, design issues with the stormwater management and the driveway access are required to be addressed before the proposal can be supported. The proposal (if approved) would also be subject to Section 94A contributions to assist in providing future demand for local services and infrastructure.</p> <p>However, the application has not demonstrated that the proposal meets the requirements of Clause 26, in that adequate access from the return bus stop to the subject site has not been demonstrated.</p> <p>The proposal (as amended) is designed as one building across two levels (plus basement) with an apartment style appearance. The overall design results in one large monolithic building which exhibits excessive bulk and scale and is inconsistent with the low density pattern of the locality and with the scale of residential uses adjacent and surrounding. Greater articulation and modulation in the form of physical breaks in the building to provide for "pavilions or modules", or a deeply recessed area, such that it would read as two distinct forms across the frontage of the site would provide for a better "fit" and would be less jarring within the R2 Low density zone.</p> <p>Therefore, proposal will result in a</p>	<b>Does not comply</b>

Development Criteria			
Clause	Requirement	Proposal	Complies
		development that is inconsistent with the existing and desired future character of the locality.	
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	Site analysis is provided detailing the site features and surroundings.	Complies

### Clause 31 Design of in-fill self-care housing

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

The provisions of the *Seniors Living Policy* 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 the SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	<p><u>Built Environment</u> – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.</p> <p><u>Policy Environment</u> – 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><u>Built Environment</u> The pattern of neighbourhood development in the vicinity of the site is detached style residential dwellings houses in landscaped settings.</p> <p>The Bayview Anchorage Marina located approximately 120m to the north-east of the site has a greater scale, but is not a residential development and is not immediately adjacent to the site and should not be seen as influencing the character relevant to the subject site.</p> <p>Therefore, the pattern of development contains a mix of low density residential development with a number of seniors housing developments.</p> <p>The proposal (as amended) will not maintain the detached style of housing consistent with the low density environment. The proposal is a large monolithic building reminiscent of a residential flat building and fails to achieve a bulk and scale and landscaped surrounds</p>

Section	Requirements	Comment
		<p>that is typical of the streetscape and Bayview locality.</p> <p><u>Policy Environment</u> The Pittwater LEP has objectives for the zone that determine the character of the area and require the area to be made up of housing that provides for the needs of the community within a low density environment, enables other land uses that provide facilities or services to meet the day to day needs of residents; and ensures that low density residential environments are characterised by landscape settings in harmony with the natural environment.</p> <p>The proposal, despite the amendments, fails to achieve these objectives in relation to the character of the area, with a bulk, scale and design of development that is not desirable for the streetscape or broader character of Pittwater Road, Bayview.</p>
2. Site Planning and design	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise the impact of new development on neighbourhood character</li> <li>-Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.</li> </ul>	<p><u>Neighbourhood Character</u> The amended proposal presents as a singular/monolithic built form that exhibits excessive bulk, scale and mass that is not consistent with the built form of low-density “detached” style housing in the surrounding neighbourhood area.</p> <p>The proposed singular/monolithic building does not provide adequate articulation and modulation in the form of any physical breaks or substantial recesses in the building. The significant vertical and horizontal bulk with no stepping back of the upper floors, combined with insufficient side setbacks, demonstrates incompatibility with the low density residential character. The large unbroken built form does not contribute favourably to the quality and identity of the residential area and does not reflect the predominant character of residential</p>



Section	Requirements	Comment
		<p>development in the area.</p> <p>The amended proposal has not demonstrated that the established neighbourhood amenity will be maintained. The proposal results in non-compliant side setbacks, contributing to excessive bulk and scale and unreasonable impacts on neighbouring privacy.</p> <p>The considerable extent of earthworks does not adequately consider the natural landform, and the design does not respond to the topography of the site by reflecting good hillside practice of the mass stepping down the site.</p> <p>Consequently, the proposal, despite the amendments, does not meet the objective.</p> <p><u>Carparking</u> Carparking is located within a basement and is not readily visible from the street. Parking is accessed from Pittwater Road with adequate carparking spaces are provided to comply with the SEPP and enables all cars to enter and leave in a forward direction. However, the proposed driveway does not provide an appropriate passing bay wholly within the site, to reduce vehicular conflict due to the horizontal and vertical sight distance from the curved driveway alignment. Therefore, the car parking does not meet the objective.</p>
3. Impacts on streetscape	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> <li>-Minimise impacts on the existing streetscape and enhance its desirable characteristics</li> <li>-Minimise dominance of driveways and car park entries in streetscape.</li> </ul>	<p>The building (as amended) will display a significant vertical bulk when viewed in the streetscape. There is no stepped profile to the upper floors to provide visual relief corresponding to the sloping topography. The flat vertical presentation will negatively impact on the streetscape.</p> <p>The installation of the driveway</p>



Section	Requirements	Comment
		<p>access point on Pittwater Road is appropriate. However, there are some design issues which Council's Development Engineers, Traffic Engineers and RMS require to be addressed before the proposal could be supported.</p> <p>Therefore, the amended proposal does not comply with the objectives.</p>
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	<p>The proposal (as amended) has not demonstrated that a reasonable neighbourhood amenity can be maintained and the resultant development is not considered to reflect an appropriate residential character and appearance.</p> <p>The amended proposal still results in non-compliant setbacks to the side boundaries, contributing to excessive bulk and scale when viewed from neighbouring properties and unreasonable impacts associated with visual privacy. The terrace on the upper level has been amended to increase the side setback and this has addressed the overlooking concerns raised by the owners of 1957 Pittwater Road. Other privacy concerns can be addressed by conditions of consent.</p> <p>Concerns with the proposed driveway access and management of stormwater are required to be further assessed by Councils Officers and the RMS before the proposal can be supported.</p> <p>Conditions of consent would be recommended to address potential environmental impacts during construction and ensure compliance with relevant environmental controls.</p>
5. Internal site amenity	<p>Objectives of this section are to:</p> <p>-Provide safe and distinct pedestrian routes to all dwellings and communal</p>	<p>Safe pedestrian access is provided from the public domain and internally for the development by pathways. Off-street parking for residents in the basement is provided, which meets the requirements of the SEPP.</p>

Section	Requirements	Comment
	facilities.	<p>The wheelchair accessible routes for residents of the building are directed to Pittwater Road. The proposal has suitable pedestrian links to the public domain and internal areas of common property.</p> <p>However, the main pedestrian thoroughfare/tunnel does not represent a good design outcome for residents, with no access to daylight and a less than optimum response to CPTED principles.</p>

### 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.	Desirable amenity elements of the location include; detached style of development in landscaped settings, open space buffers of rear setbacks and private living environments with minimal overshadowing and good road access to services and facilities. These factors are not incorporated into the proposed development.	<b>Does not comply</b>
	b. Retain, 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.	Councils Heritage Officers have assessed the application due to the sites close proximity to the heritage listed " <i>Maybanks House (Stoneleigh) and plaque</i> ". The proposal will not have any unreasonable impact on the nearby heritage item.	Complies
	c. Maintain reasonable neighbour amenity and	Reasonable neighbour amenity will be not be maintained in that the proposal	<b>Does not comply</b>

Control	Requirement	Proposed	Compliance
	<p>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>has been designed as follows:</p> <p>i) Insufficient building setbacks to minimise bulk and scale, and alleviate privacy impacts. Increased setbacks and reduced bulk and scale would also improve solar access.</p> <p>ii) The proposal will require substantial excavation for the site to accommodate the development. The extent of excavation for the basement and building footprint encroaches within side setback areas and does not reflect good hillside practice as the mass of the development does not "step-down' the slope to correspond with the topography of the site.</p> <p>iii) The substantial excavation results in a building envelope and building height that is compliant with the controls. However, the proposed building will display a significant vertical bulk when viewed in the streetscape resulting in an incompatible scale with neighbouring developments and the streetscape.</p> <p>iv) There are no neighbouring buildings located on a nil setback to the boundary.</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>The proposal is consistent with setbacks on adjacent land and complies with the 6.5m setback in the Pittwater 21 DCP.</p>	Complies
	<p>e. embody planting that is in sympathy with, but not</p>	<p>The proposal does involve the planting of additional canopy trees. Small to medium sized</p>	Complies

Control	Requirement	Proposed	Compliance
	necessarily the same as, other planting in the streetscape.	trees and shrubs are used that includes perimeter planting and landscaping within the spaces between the dwelling and side setbacks. Landscaped open space and deep soil zones are provided at the front of the site to enable continuity with adjoining front gardens.	
	f. retain , wherever reasonable, major existing trees, and	The development proposes to remove significant canopy trees on the site. These existing trees provide landscaped and streetscape amenity and would screen and soften the built form of the proposal. The removal of significant canopy trees is inconsistent with the existing neighbourhood amenity and streetscape. However, there is the retention of some existing significant trees and the planting of additional canopy trees to ensure the landscape outcome is acceptable.	Complies
	g. be designed so that no building is constructed in a riparian zone.	The site is not within a riparian zone.	N/A
CL 34 Visual and acoustic privacy	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,	Visual and acoustic privacy impacts have generally been addressed in the amended plans.  Additional privacy measures are required to ensure adequate privacy in these locations. This can be conditioned.	<b>Complies (subject to conditions)</b>

Control	Requirement	Proposed	Compliance
	parking areas and paths.		
CL35 Solar access and design for climate	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 northerly direction.	<p>The adjoining property to the south-east is a two storey dwelling house. The dwelling house has a kitchen window and laundry windows on the north-western elevation, and its private open space area is located in the south-eastern area adjoining the dwelling house.</p> <p>Assessment of the Shadow Diagrams DA -01, 02 &amp; 03, dated January 2019, demonstrated that the neighbouring property achieves the required 3 hours of solar access between 9.00am and 3.00pm. However, if the development reduced the bulk and scale, and provided larger side setbacks, the solar access impacts would be reduced.</p> <p>The proposal has been submitted with a BASIX certificate and energy rating assessment to demonstrate that the dwellings will meet performance standard for thermal and cooling condition for sustainable building design and comfortable living.</p> <p>The living rooms of all units are oriented towards north-east, which should assist in maximising the amount of sunlight received in these areas. However, concern is raised with regard to the amount of direct sunlight hitting windows and private open space areas associated with living areas with Unit 1.</p>	Complies
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where	There are stormwater design issues that Councils Development Engineers require to be addressed before	<b>Does not comply (insufficient information)</b>

Control	Requirement	Proposed	Compliance
	practical include on-site detention and water re-use.	<p>the proposal can be supported in accordance with Council's Stormwater Policy, and Technical Specification.</p> <p>This is specifically in relation to the "DRAINS" hydraulic model that has been requested but not provided.</p>	
CL 37 Crime prevention	<p>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.</p>	<p>The development provides clear sight lines of the entry path to the 4 units for passive surveillance.</p> <p>However, the underground corridor and passages as the main pedestrian thoroughfare/tunnel does not represent a good design outcome for residents, and a less than optimum response to CPTED principles.</p> <p>Secure lift access and basement access can be provided including intercom facilitates to maintain security.</p>	<b>Does not comply (underground corridor)</b>
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	<p>Vehicle and pedestrian entries are separate with the pedestrian access tunnelled underneath the driveway/carpark entrance.</p> <p>Carparking is located within the basement and incorporates an entry to the lift that services the development.</p>	<p>Complies</p> <p>Complies</p> <p>Complies</p>



Control	Requirement	Proposed	Compliance
	safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	<p>A concrete path from Pittwater Road leads the pedestrians into the entrance of the development.</p> <p>There is a concrete footpath on the northern side of Pittwater Road and is of a gradient that will not hinder access to the the bus stop on the northern side of Pittwater Road to gain access to the the Mona Vale Commercial Centre.</p> <p>However, there is no design for a constructed footpath access to the return route bus stop on the southern side of Pittwater Road. Therefore, the application does not comply with the requirements of the clause.</p>	<p>Complies</p> <p><b>Does not comply</b></p>
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	<p>A garbage bin storage room is located within the basement carparking area.</p> <p>Access to the street for waste management is a less than optimal response in that the access is via the driveway, not a separate pathway within the site.</p> <p>The development is subject to the requirements of <i>Council's Waste Management Plan</i> for the provision of appropriate bins, however the bin storage room does not meet the relevant Council requirements.</p>	<b>Does not comply</b>

#### 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 the standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1,000 sqm	1,296.5sqm	Complies
Site frontage	20 metres	32.64m (by survey) to Pittwater Road	Complies
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	7.7m	Complies
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	2 storeys	Complies
	A building located in the rear 25% of the site must not exceed 1 storey in height	Unit 1 is single storey at the rear of the site	Complies

#### Clause 41 Standards for hostels and self contained dwellings

Clause 41 prescribes various standards concerning accessibility and useability having regard to relevant Australian Standards. The applicant has submitted a report and checklist prepared by an accredited access consultant verifying that the proposal will comply with the relevant standards. These standards may be reinforced via suitable conditions of consent, should the application be worthy of approval.

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

Clause 50 prescribes that consent to development for the purpose of self-contained dwellings must not be refused on the grounds of building height, density and scale, landscaped area, deep soil zones, solar access and parking, if certain numerical standards are met. The following table outlines compliance with the 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)	7.7m	Complies
Density and scale	0.5:1	0:5:1	Complies
Landscaped area	30% of the site area is to be landscaped	53% (553sqm) of the site is to be landscaped.	Complies

Control	Required	Proposed	Compliance
Deep soil zone	15% of the site area. Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	The site only contains 165.1sqm (12.7%) of deep soil landscape at the rear of the site.	<b>Does not comply</b>
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	Three (3) dwellings should receive a minimum of 3 hours solar access to internal living areas and to private open space.  However, concern is raised with regard to the amount of direct sunlight hitting windows and private open space areas associated with living areas with Unit 1. The submitted shadow diagrams do not demonstrate compliance with this standard.	<b>Does not comply</b>
Private open space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in 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  (ii) in the case of any	Dwelling 1: 32.341 sqm  Dwelling 2: 14.46 sqm Dwelling 3: 8.92 sqm (under) Dwelling 4: 39.8 sqm  (only areas 3m x 3m included)  Dwelling 1, 2 and 3 have additional private open spaces areas (terraces), however these are below the required 3m x 3m requirement).  The total private open spaces area, with these areas included are as follows:	<b>Does Not comply (Dwelling 2 and 3)</b>

Control	Required	Proposed	Compliance
	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	Dwelling 1: 65.165 sqm Dwelling 2: 34.238 sqm Dwelling 3: 35.755 sqm Dwelling 4: 66.56 sqm (original, but has been reduced under amended scheme)	
Parking	(10 bedrooms proposed – 5 carparking spaces required)	0.5 spaces per bedroom. There are 11 bedrooms proposed - 6 car parking spaces are required.  The proposal has 8 carparking spaces.	Complies
Visitor parking	None required if less than 8 dwellings	No visitor car parking spaces are proposed.	Complies

#### Chapter 4 – Miscellaneous

The proposed development is consistent with the provisions contained in Chapter 4. The site is not on environmentally sensitive land, is not affected by amendments to other SEPPs, and the special provisions do not apply to the land.

#### SEPP (Infrastructure) 2007

##### Ausgrid

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

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

##### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## SEPP (Coastal Management) 2018

The site is located within the Coastal Use Area and Coastal Environment Area as identified by State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and the provisions of this policy are applicable in relation to the proposal. Following detailed assessment of the proposed development, the consent authority can be satisfied of the following:

- The proposal is not likely to cause an adverse impact upon the matters listed in clause 13(1) of the CM SEPP
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 13(1) of the CM SEPP
- The proposal is not likely to cause an adverse impact upon the matters listed in clause 14(1) of the CM SEPP
- The proposal has been designed, sited and will be managed to avoid adverse impacts on the matters listed in clause 14(1) of the CM SEPP
- The proposal is not likely to cause increased risk of coastal hazards on the site or other land as listed in clause 15 of the CM SEPP

As such, the proposal is considered to be consistent with the provisions of the CM SEPP, including the matters prescribed by clauses 13, 14 and 15 of this policy.

## 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	Complies
Height of Buildings	8.5m	7.7m	Yes

## Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
5.9 Preservation of trees or vegetation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

## Detailed Assessment

### 7.2 Earthworks

A Geotechnical Assessment, prepared by Ascent, reference number Ref: AG19015, dated 30 January, 2019 was submitted with the application. Should the application be approved, the report and its recommendations can be included within the conditions of consent to ensure there is no adverse impacts to the surrounding properties resulting from the proposed excavation. Suitable conditions can be imposed in relation to Dilapidation Reports on adjoining properties.

### 7.7 Geotechnical hazards

A Geotechnical Assessment, prepared by Ascent, reference number Ref: AG19015, dated 30 January, 2019 was submitted with the application. Should the application be approved, the report and its recommendations can be included within the conditions of consent to ensure there is no adverse impacts to the surrounding properties resulting from the proposed development on sloping land. Suitable conditions can be imposed in relation to Dilapidation Reports on adjoining properties.

## **Pittwater 21 Development Control Plan**

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	10.0m	-	Yes
Rear building line	6.0m	6.5m - 10.3m Ground Floor 6.0m - 10.3m First Floor	- -	Yes Yes
Side building line	3.825m North-Western	3.0m	24.5%	<b>No</b>
	3.875m South-Eastern	3.0m	24.5%	<b>No</b>
Building envelope	3.5m North-Western	No encroachment	-	Yes
	3.5m South-Eastern	No encroachment	-	Yes
Landscaped area	50%	50%	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.4 Church Point and Bayview Locality	No	No
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes



Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	No	No
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	No	No
B5.10 Stormwater Discharge into Public Drainage System	No	No
B6.1 Access driveways and Works on the Public Road Reserve	No	No
B6.2 Internal Driveways	No	No
B6.3 Off-Street Vehicle Parking Requirements	No	No
B8.1 Construction and Demolition - Excavation and Landfill	No	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
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	No	No
C1.5 Visual Privacy	Yes	N/A
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	No	No
C1.9 Adaptable Housing and Accessibility	Yes	Yes
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	No	No
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	No	No
C1.23 Eaves	No	No
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D4.1 Character as viewed from a public place	No	No
D4.3 Building colours and materials	Yes	Yes
D4.5 Front building line	Yes	Yes
D4.6 Side and rear building line	No	No
D4.8 Building envelope	Yes	Yes
D4.9 Landscaped Area - General	Yes	Yes
D4.11 Fences - General	Yes	Yes
D4.13 Construction, Retaining walls, terracing and undercroft areas	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
D4.14 Scenic Protection Category One Areas	No	No

#### Detailed Assessment

#### **A4.4 Church Point and Bayview Locality**

The proposed seniors housing development, despite the amendments made, remains inconsistent with the desired future character of the Church Point and Bayview Locality with regard to both the type of development and the proposed density of development. It is noted that other localities include the word '*primarily*' before the density specification, and would allow for the inclusion of a greater density of development, whereas the Church Point and Bayview Locality does not.

The proposed development will not have the appearance of a "detached-style" dwelling house in a natural landscaped setting, integrated with the landform and landscape. Particularly, as the singular monolithic building displays a significant vertical bulk when viewed in the streetscape. There is no stepped profile to the upper floors to provide visual relief which relates to the sloping topography of the site. The flat vertical presentation will be visually prominent and will negatively impact on the streetscape and does not reflect the predominant character of residential development in the area.

The proposed singular/monolithic building does not provide adequate articulation and modulation in the form of physical breaks in the building to provide for "pavilions" or "modules", or any deeply recessed areas such that it would read as distinctly separate forms across the frontage of the site, thereby reflecting the low density detached style and minimising the visual amenity impact to the streetscape. The design is both inconsistent with surrounding development and the design requirements identified for future development within the Pittwater locality. The existing detached style dwelling house is shown below in Photo 1.



**Photo 1. Existing detached style dwelling on the subject site**

The extent of excavation and site disturbance is also inconsistent with the desired future character statement for Church Point and Bayview with regard to the maintenance of natural landforms and other

features of the natural environment and is not considered a sensitive design solution for this environmentally sensitive site. The extent of excavation for the basement and building footprint encroaches within the side setback areas and does not reflect good hillside practice of the mass "stepping-down" the slope to correspond with the topography of the site. Therefore, it cannot be said that the proposed development has been designed to minimise bulk and scale, or lessen the visual impact of the proposed development as viewed from Pittwater Road, or adjoining properties.

Overall, the proposal(as amended) is inconsistent with the desired future character of the Church Point and Bayview Locality.

### **B1.3 Heritage Conservation - General**

The proposal is located within the proximity of the heritage item "*Maybanke House (Stoneleigh) and plaque - 1945 Pittwater Road, Bayview*". Councils Heritage Officers have reviewed the proposal and have raised no concerns with the proposal.

### **B3.1 Landslip Hazard**

A Geotechnical Assessment, prepared by Ascent Geotechnical Consulting, Report Number AG 19015, dated 30 January, 2019 was submitted with the application. Should the application be approved, this report and its recommendations can be included in the conditions to ensure that there are no adverse impacts to surrounding properties resulting from the proposed excavation.

### **B4.22 Preservation of Trees and Bushland Vegetation**

The Landscape Plan (L001), dated 5 February 2019 demonstrates that the landscaping proposal is acceptable, subject to the retention and protection of nominated trees and the completion of landscape works as conditioned.

### **B5.7 Stormwater Management - On-Site Stormwater Detention**

Councils Development Engineers cannot support the proposal due to insufficient information in regards to the stormwater management onsite. The applicant has failed to provide the Hydraulic Model "Drains", so the proposal cannot be supported at this stage.

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

The development proposes a 3.5m wide driveway from the front boundary to the building, with a traffic signal system. Vehicle movements will not be able to be safely managed with the proposed system, due to the lack of a vehicle passing bay, therefore the proposal is supported for this reason.

### **B6.2 Internal Driveways**

The minimum width of the driveway entry at Pittwater Road is inadequate. In this regard, the RMS and Councils Traffic Engineers require the driveway to be widened to 5.5m for a minimum distance of 6.0m from the property boundary to reduce vehicular conflict due to the horizontal and vertical sight distance restrictions from the curved alignment of the driveway and front retaining wall. Therefore, the proposal does not satisfy the outcomes of the control.

### **B6.3 Off-Street Vehicle Parking Requirements**

The proposal does not provide additional visitor car parking spaces on the site.

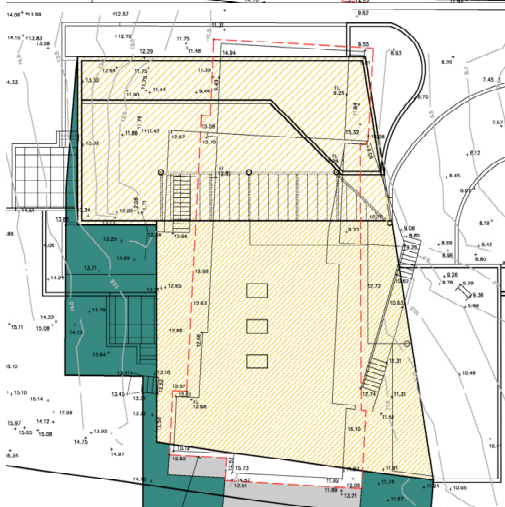
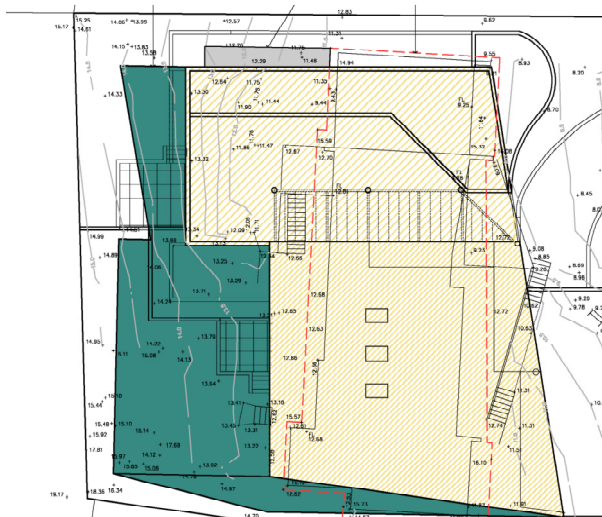
Whilst the proposal does not satisfy the requirements for visitor parking as prescribed by P21 DCP, there is no requirement for visitor car parking prescribed by the SEPP HSPD due to the proposal being 4 units. Based on compliance with the SEPP, the lack of visitor parking cannot be used as a reason for refusal.

## C1.4 Solar Access

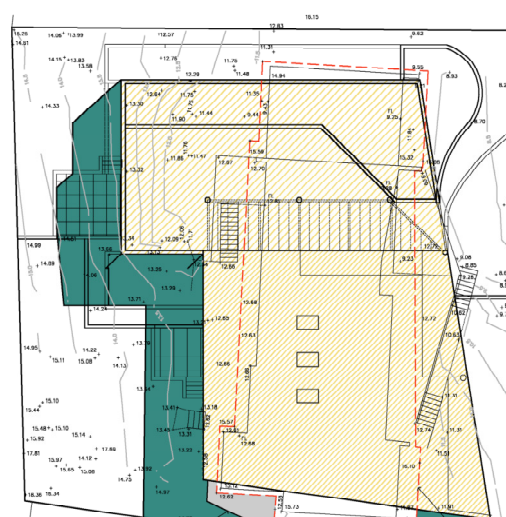
Concern is raised with regard to the amount of direct sunlight hitting windows and private open space areas associated with living areas with Unit 1, noting that P21 DCP identifies the need to receive sunlight to at least 50% of the glazed area.

The applicant has not provided sufficient information to determine compliance with the requirements of this control, and concern is raised with regard to solar access to the front terrace and rear courtyard adjoining living rooms and potential loss of solar access associated with screening devices required to minimise visual privacy impacts.

The shadow diagrams below show that the rear windows (adjoining living rooms) and courtyard of Unit 1 are in shadow between 9am and 3pm.



**Figure 1.** Shadow over the rear windows  
**Figure 3.** Shadow still over rear windows  
and Court Yard of Unit 1 at 9.00am  
and Court Yard at 3.00pm



**Figure 2.** Shadow still over rear windows  
and Court Yard at 12 noon



All areas of private open space for Units 2, 3 and 4 will receive in excess of 3 hours of direct sunlight between 9.00am and 3.00pm during midwinter.

### **Adjoining Dwellings**

The application was supported by shadow diagrams which demonstrate that the proposed development will not result in any unreasonable impacts upon adjoining properties with regard to solar access. However, it is recognised that an increase in the side setbacks and the reduction in the bulk and scale would improve solar access to the south-eastern neighbouring property.

Therefore, the proposal satisfies the requirements of the control.

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

Concern was raised in the assessment of the original scheme in relation to the potential overlooking of adjoining properties. Overlooking was associated with the north-western and south-eastern windows, the front terraces of Units 1, 2 and 3 and the roof terrace associated with Unit 4.

### **Adjoining Dwellings**

Submissions have been received from adjoining property owners at No.1955 and No.1963 Pittwater Road, with regard to potential overlooking into their private open space areas that may result from the proposed development.

#### ***No.1957 Pittwater Road***

Specific concern is raised regarding the windows on the north-western elevation of Unit 1 and Unit 2, as the windows are directly orientated towards the neighbouring site. The windows have the potential to directly overlook the south-eastern windows and front balcony areas.

No.1957 Pittwater Road has two large balcony areas primarily utilised for recreational purposes. These front balcony areas adjoin the primary living spaces of the neighbouring dwelling house, being loungerooms, and kitchen/dinning areas, see photo 2 below.

The original design of the roof terrace of Unit 4 and the front terrace of Unit 2 had the ability to directly overlook these front balcony areas. However, the amended proposal effectively eliminates overlooking from the terrace of Unit 4 and conditions of consent will address the other privacy concerns.



**Photo 2.** The two front balcony recreational areas of No.1963 Pittwater Road.

### **No.1953 Pittwater Road**

Specific resident concerns were raised in regards to the windows on the south-eastern elevation of Unit 3 and Unit 4 as the windows could directly overlook the north-western window (kitchen), rear private open space area and front balcony areas of No.1953 Pittwater Road.

No.1953 also has a front balcony area used for primarily for primary recreational purposes, see photo 3 below.



**Photo 3.** The front balcony recreational area of No.1953 Pittwater Road.

No privacy mitigation measures have been incorporated into the design. Screening will be required in certain areas of the development in order to maintain adequate privacy between adjoining properties. Suitable conditions of consent can satisfactorily address these concerns.

Therefore, the proposal, subject to conditions, is satisfactory in terms of visual privacy.



### **C1.7 Private Open Space**

A minimum of 15% of the floor area of each dwelling is required as private open space, with ground floor units needing 30sqm. Details of areas are provided previously in this report.

The development fails to comply with SEPP (ARH) requirements which supersedes Council's DCP controls. Therefore, the variation is not supported.

### **C1.9 Adaptable Housing and Accessibility**

An Access Report has been prepared by Accessible Public Domain, dated 15 February 2019, which concludes that suitable access is provided for the development. The Accessibility Report ensures compliance with the standards prescribed by AS 4299-1995 Adaptable Housing.

### **C1.12 Waste and Recycling Facilities**

A garbage bin storage room is located within the basement carparking area. Access to the street for waste management is via the driveway, not a separate pathway within the site. The development is subject to the requirements of *Council's Waste Management Plan* for the provision of appropriate bins, however the bin storage room does not meet the relevant Council requirements.

### **C1.21 Seniors Housing**

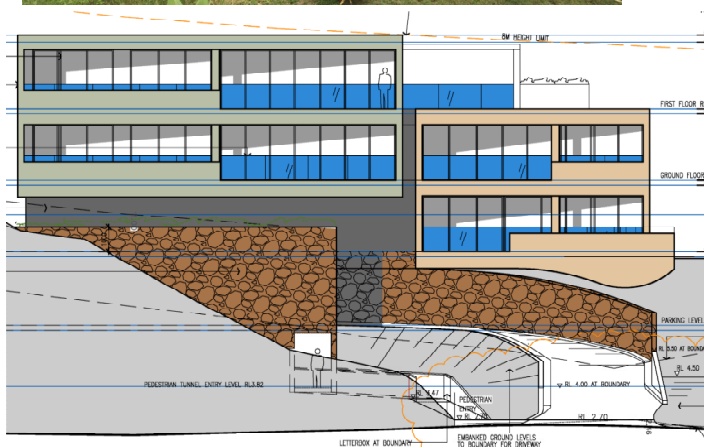
The proposed development, comprising 4 units within one large monolithic building exhibits excessive bulk, scale and mass, such that it is not consistent with the built form of low-density "detached" style housing in the surrounding area. Numerous submissions have been received from the public expressing concern in this regard. Therefore, the proposal does not satisfy the control.

### **C1.23 Eaves**

The proposed development does not include any eaves on any elevation. The lack of eaves, in conjunction with the flat roof form, is seen to contribute to the proposal's inconsistency with the character of the locality and the outcomes of this clause.

### **D4.1 Character as viewed from a public place**

The proposed development is of a greater scale than any other development within the visual catchment of the site. The development also exceeds the built form controls prescribed by Pittwater 21 DCP and the built form development standards within the PLEP and SEPP HSPD. Overall, it cannot be said that the bulk and scale of the development is minimised in that the proposal exhibits excessive bulk, scale and mass that is not consistent with the built form of low-density "detached" style housing in the surrounding area as shown below.



**Photo 4.** Existing Pittwater Road presentation (amended scheme).  
of a "detached style" dwelling house.

**Figure 5.** Proposed Pittwater Road presentation

Additionally, the proposal is unable to achieve consistency with the outcomes of this clause which aim to ensure that new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment and that buildings do not dominate the streetscape and are of a "human scale".

Several submissions have been received in objection to the development, particularly with regard to the bulk and scale of the built form and its inconsistency with the character of the locality. Those concerns are concurred with.

#### **D4.3 Building colours and materials**

The application was supported by a schedule of finishes which is generally consistent with the requirements of Clause D4.3 of P21 DCP.

#### **D4.6 Side and rear building line**

The proposed side setbacks are inadequate and do not provide for an appropriate level of spatial separation.

The DCP requires residential flat buildings to have a setback determined by the formula below:

$$S = 3 + \frac{H - 2}{4}$$

Based on a wall height, a minimum setback of 3.85m to the north-western side boundary and a

minimum of 3.875m to the south-western side boundary would be required. The proposed development has side setbacks of 3.0m which are lesser than the minimum required.

### **Merit consideration**

No specific justification for the variation is provided in the SEE.

The minimal side setbacks proposed attribute to a proposal that exhibits excessive bulk, scale and mass as viewed from both the street and the waterway, and does not provide sufficient space to alleviate amenity impacts such as privacy and solar access.

The variation to the side setbacks are not supported, in that higher intensity development should respond to the local character by providing greater setbacks to maintain more appropriate spatial separation.

The Pittwater 21 DCP does provide for variations relating to the greater setbacks associated with multi-unit housing developments, however as the application is unable to achieve consistency with the outcomes of this control, through minimising the visual impact of the development, these variations have not been demonstrated to be warranted or well founded.

### **D4.11 Fences - General**

New boundary fencing is to be provided to the rear and side boundaries, and will not exceed 1.8m in height

### **D4.13 Construction, Retaining walls, terracing and undercroft areas**

The proposal will require substantial excavation to accommodate the development, including a 4.0m to 6.9m deep cut behind the building and an 8.8m to 11.2m cut for the basement levels. In this regard, the levels of excavation have not been minimised, and the extent of excavation for the basement and building footprint encroaches within the side setback and does not reflect good hillside practice of the mass stepping down the slope to correspond with the topography of the site. The proposal presents as a tall front retaining wall, whilst treated in natural stone, adds to the visual impact of the development. The proposal is inconsistent with the requirements of the clause and is inconsistent with the character of the locality as described in Clause A4.4 (Church Point and Bayview Locality).

### **D4.14 Scenic Protection Category One Areas**

The proposed development has a built form that is inappropriate and unsuitable having regard to the context of the area and the character of residential development in the Church Point and Bayview Locality. The proposal has a singular/monolithic built form that exhibits excessive bulk, scale and mass that is not consistent with the built form of low-density "detached" style housing in the surrounding area and does not achieve the consistency with the requirements of this control.

Whilst the landscape treatment of the site is supported, and the retention of the large trees within the Council Road Reserve will assist in softening the built form, there will still be a significant visual 'jarring' effect when viewed from the neighbouring properties and from Pittwater Road.

Submissions have been received in objection to the proposal on this basis, raising concern with regard to potential tree loss and the resultant visual impact of the development as seen from Pittwater Road and the waterway. Those concerns are concurred with.

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

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **Detailed Conclusion Comments**

The assessment of the application, as amended, has found that the character, design and external appearance of the building and the non-compliance with the access requirements to services and facilities (bus stops) under the SEPP HSPD and Pittwater 21 DCP are still fundamental issues that render the proposal inappropriate and unsuitable for the site and the locality.

The applicant has not adequately demonstrated that a compliant footpath can be constructed from the return bus stop in Pittwater Road to the subject site to satisfy the requirements of Clause 26 of the SEPP.

In terms of the built form of the development, the proposed singular/monolithic building typology does not provide for an outcome that is compatible with the predominant character of residential development in the surrounding area. The lack of articulation of the front facade to produce a pavilion or module effect is a fundamental shortcoming of the design. The bulk and scale of the building is excessive and is not consistent with a site responsive design on sloping land on the high side of the street.

The design is not consistent with the desired future character statement for the Church Point and Bayview Locality and exhibits non-compliances with the side setback controls and solar access requirements.

The notification of the original and amended scheme resulted in 10 submissions from surrounding properties. The objections raised concerns primarily in relation to height, bulk and scale, the building being out of character with the low-density “detached” style housing in the area, non-compliant access to nearby bus stops, lack of parking, excessive tree loss, excessive excavation and adverse visual privacy impacts.

A Class 1 Appeal has been lodged in the LEC against the deemed refusal of the application, which triggered an amended scheme, which has been addressed in this report.

Finally, there are still outstanding stormwater engineering, traffic and waste issues and concurrence of the RMS has not been issued for the proposal.

In summary, the application (as amended) should be refused as the proposal is unsatisfactory in terms of its character and design, the visual bulk and scale and the development, non-compliance with the access requirements under the SEPP HSPD, impacts on surrounding properties and the streetscape of Pittwater Road, unresolved referral issues and the lack of concurrence from the RMS.

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 DA2019/0154 for the Demolition works and construction of a seniors housing development on land at Lot 1 DP 373531, 1955 Pittwater Road, BAYVIEW, for the reasons outlined as follows:

1. Pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the proposal does not comply with the following requirements of the SEPP:
  - (a) Clause 26 in that the applicant has not demonstrated that the site is located within 400 metres of public transport services to essential facilities and services which comply with the required gradients. In this regard, insufficient information has been provided to demonstrate compliant grades, including longitudinal sections and levels.
  - (b) Clause 29, 31, 32 and 33 in that the proposal is unsatisfactory in relation to character, streetscape and built form.
  - (c) Clause 36 in that stormwater management issues remain unresolved.
  - (d) Clause 37 in that crime prevention issues remain unresolved.
  - (e) Clause 38 in that accessibility requirements have not been resolved.
  - (f) Clause 39 in that waste management issues remain unresolved.
  - (g) Clause 50 in that the proposal is unsatisfactory in relation to deep soil, solar access and private open space.

2. Pursuant to Section 100 "Development on proposed classified road" of State Environmental Planning Policy (Infrastructure) 2007, the concurrence of the Roads and Maritime Services has not been granted for the development, which obtains access from Pittwater Road and proposes the construction of a passing bay within the road reserve.
3. 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.
4. 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:
  - (a) Clause A4.4 Church Point and Bayview Locality in that the proposal is inconsistent with the desired future character of the locality.
  - (b) Clause B5.7 Stormwater Management - Onsite Stormwater Detention
  - (c) Clause B6.1 Access Driveways and Works on the Public Road Reserve
  - (d) Clause B6.2 Internal Driveways
  - (e) Clause C1.4 Solar Access
  - (f) Clause C1.7 Private Open Space
  - (g) Clause C1.12 Waste and Recycling Facilities
  - (h) Clause C1.21 Seniors Housing
  - (i) Clause C1.23 Eaves
  - (j) Clause D4.1 Character as viewed from a Public Place
  - (k) Clause D4.6 Side and Rear Building Lines
  - (l) Clause D4.13 Construction, retaining walls, terracing and undercroft areas
  - (m) Clause D4.14 Scenic Protection Category One Areas

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

**Signed**



The application is determined on //, under the delegated authority of:

**Steven Findlay, Manager Development Assessments**

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**Peter Robinson, Executive Manager Development Assessment**