

**SYDNEY NORTH PLANNING PANEL
COUNCIL ASSESSMENT REPORT**

Panel Reference	2018SNH001
DA Number	DA2017/1274
LGA	Northern Beaches Council
Proposed Development	Construction of Seniors Housing consisting of 95 units including Golf Course upgrades and infrastructure works.
Street Address	1825 Pittwater Road & 52 Cabbage Tree Road, Bayview
Applicant	Waterbrook Bayview Pty Ltd
Owner	Bayview Golf Club Ltd
Date of DA lodgement	19 December 2017
Number of Submissions	A total of <u>567</u> submissions received, which includes: <ul style="list-style-type: none"> • 163 individual submissions and 1 petition with 7199 signatures objecting to the proposal; and • 403 individual letters in support of the proposal
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP) State and Regional Development) 2011	Development with a Capital Investment Value (CIV) of more than \$30 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • Environmental Planning and Assessment Regulations 2000; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development; • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004; • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy (Infrastructure) 2007; • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; • State Environmental Planning Policy No 44 – Koala Habitat; and • Pittwater Local Environmental Plan 2014.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 –Architectural Plans • Attachment 2- Site Compatibility Certificate • Attachment 3 –Hill Thalys Urban Design Report • Attachment 4 –Applicant's Clause 4.6
Report by	Andrew Pigott–Acting General Manager for Planning Place & Community
Responsible Officer	Lashta Haidari - Principal Planner
Report date	8 August 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards	
If a written request for a contravention of a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not Applicable
Conditions	
Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefers that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	No

Executive Summary

Northern Beaches Council is in receipt of Development Application (DA2017/1274) from Waterbrook Bayview Pty Ltd for a Golf Course upgrade and infrastructure works and proposed Seniors Housing Development comprising 95 self-contained units, facilities building, basement car parking, and associated works at 1825 Pittwater Road and 52 Cabbage Tree Road, Bayview (Bayview Golf Course).

The overall site area of the Golf Course comprises an area of approximately 367,725m² (36.8ha). The site is irregular in shape, and is predominantly used for the purposes of fairways and greens associated with the golf club.

The subject site is zoned RE2 Private Recreation under the *Pittwater Local Environment 2014* (PLEP 2014). Development for the purposes of seniors housing is permitted with consent under the *State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004* (SEPP HSPD) provided a Site Compatibility Certificate (SCC) is issued by the NSW Department of Planning and Environment (DPE) pursuant to Clause 25(4) (a) of SEPP (HSPD).

In March 2017, an SCC was issued by the Deputy Secretary of the DPE for the seniors housing component of the development. In issuing the SCC, the DPE imposed a number of requirements on the determination. Of particular importance to note, was the requirement that restricts the seniors housing to a site area of 18, 970m² (1.897 ha), the other related to the resolution of issues relating to built form, height, bulk and scale, setbacks and landscaping.

The applicant is not seeking subdivision as part of this application, however to avoid any confusion, this assessment has taken the "site area" for seniors housing component to be limited to that approved under the SCC, being the building footprint within the north-western portion of the site (see Figure 1). This portion of the land contains the 4th, 5th, 6th and 7th holes of the Bayview Golf Course, which is immediately bordered by Cabbage Tree Road to the east and low density residential development, which comprises predominantly 1 and 2 storey dwelling houses, to the north east of the site.



Figure 1 - Aerial image of site with proposed development footprint outlined in red

The assessment of this DA has found that whilst the Golf Course upgrade and infrastructure works is a positive aspect of this application, there are a number of concerns raised with the application that relate to the senior's housing component of the development. In particular, the bulk, scale, built form and character sought by the proposal exceeds that envisaged for the site under the planning controls, particularly having regard to the visual impact and appearance of the proposed building forms and the lack of landscaping provided for a development in this location, scale and configuration.

Having regard to the design and character requirements embodied in the applicable planning controls, and considering the site's prominent location, the proposal is not considered to be an appropriate or suitable response. The character tests applicable under the SEPP (HSPD) and the core principles as contained in *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65), encourage a form of development which is more compatible and consistent with the predominant built form surrounding the site. The proposal is found to be inconsistent with the core principles as contained in SEPP 65 and the design and character requirements under SEPP (HSPD), PLEP 2014 and *Pittwater 21 Development Control Plan* (P21 DCP).

The proposal is recommended for refusal as it fails to comply with the 'Height of Buildings' Development Standard under the PLEP 2014 which permits a maximum building height of 8.5m within the RE2 Private Recreation zone. The proposed variation of up to 14m (64.7%) has been found to be excessive and not in public interest. There are not sufficient environmental planning grounds provided by the applicant to justify contravening the Development Standard to such an extent.

This assessment has also raised concerns in relation to the applicability of the SEPP (HSPD) to the site, given that a portion of the site is mapped Geotechnical Hazard, which is identified as "Natural Hazard" under Schedule 1 of the SEPP (HSPD). It is also noted that the SCC issued for the site provides an incorrect description of the proposed development. Therefore an inconsistency exists between the applicant's submission and the SCC on the type of the housing proposed.

The proposed development has a capital investment value in excess of \$30 million. As such, the Sydney North Planning Panel (SNPP) has the function of determining the application in accordance with Section 2.12 and 2.15 (previously Section 23G) of the *Environmental Planning and Assessment Act 1979* (EPA Act).

An assessment of the proposed development under Section 2.12 and 2.15 (previously 23G), and Section 4.15 (previously 79C) of the EPA Act, 1979 has been undertaken and it is considered that the proposal does not satisfy the appropriate controls. All relevant processes and assessments have been satisfactorily addressed.

Accordingly, it is recommended that the SNPP, as the determining authority, refuse this application for the reasons detailed within the “Recommendation” section of this report.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the EPA Act (as amended) 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 EPA Act, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

STATUTORY CONTROLS

- a) *Environmental Planning and Assessment Act 1979;*
- b) *Environmental Planning and Assessment Regulations 2000;*
- c) *State Environmental Planning Policy (State and Regional Development) 2011;*
- d) *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;*
- e) *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;*
- f) *State Environmental Planning Policy No. 55 – Remediation of Land;*
- g) *State Environmental Planning Policy (Infrastructure) 2007;*
- h) *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- i) *State Environmental Planning Policy No 44 – Koala Habitat; and*
- j) *Pittwater Local Environmental Plan 2014.*

NON-STATUTORY CONTROLS

- a) *Pittwater 21 Development Control Plan*

RELEVANT PLANNING PRINCIPLES

The following Land and Environment Court (LEC) Judgements and Planning Principles have been considered in this assessment:

- *Wirrabara Village Pty Limited v The Hills Shire Council (2018) NSWLEC 1187*
- *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*
- *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268*
- *Salanitro-Chafei v Ashfield Council [2005] NSWLEC 366*

SITE DESCRIPTION

The subject site consists of 12 allotments individually known as:

Lot and DP	Street Address
Lot 300 DP 1139238	1825 Pittwater Road, Bayview
Lot 3 DP 986894	
Lot 2 DP 986894	
Lot 1 DP 986894	
Lot 191 DP 1039481	
Lot 150 DP 1003518	
Lot A DP 339874	
Lot 1 DP 19161	52 Cabbage Tree Road, Bayview
Lot 1 DP 662920	
Lot 5 DP 45114	
Lot 6 DP 45114	
Lot 7 DP 45114	

The site is currently occupied by Bayview Golf Course ('the site') is located at the southern end of Pittwater Waterway. The site is split into two portions divided by Cabbage Tree Road, bordered by Cabbage Tree Road, Pittwater Road, Darley Street West, and Parkland Road. A large watercourse is located on the north-eastern corner of the site.

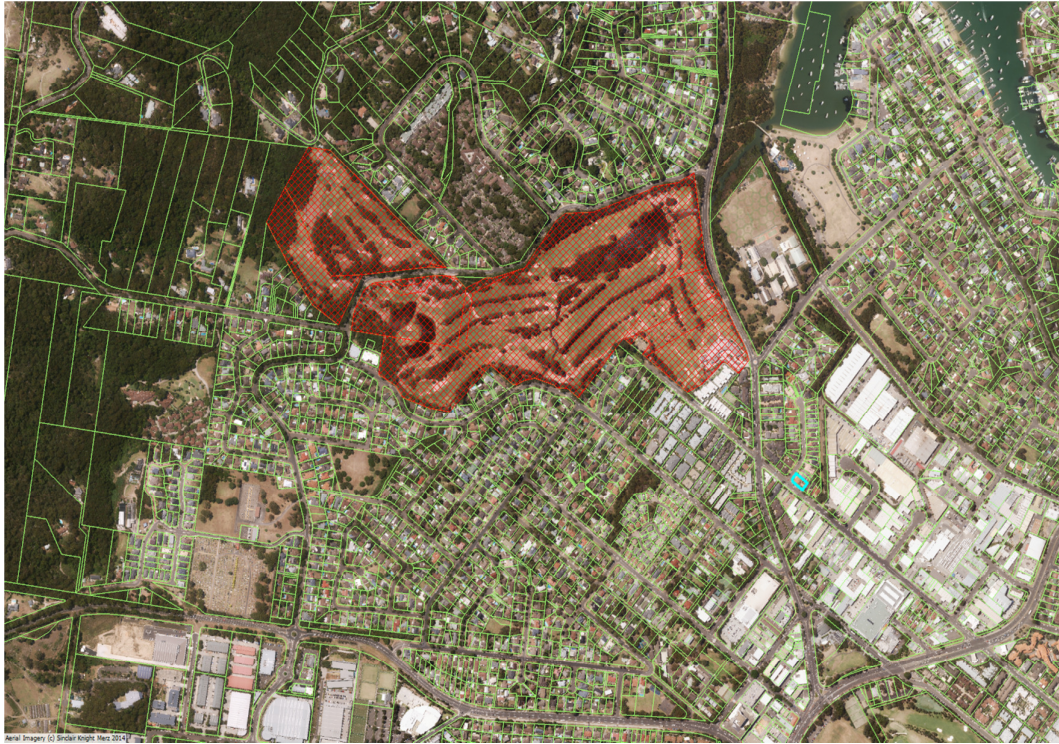


Figure 2 - Site Plan

The overall site comprises an area of approximately 367,725m² (36.8ha). It is irregular in shape, and is predominantly used for the purposes of fairways and greens associated with the golf club building. The clubhouse is located on Lot 300 in DP1139238, directly adjoining and accessed from Pittwater Road.

The proposed seniors housing will be located north-west of Cabbage Tree Road on an elevated portion of the existing golf course. The seniors housing site is restricted to an area of 1.897 ha.

The site (beyond the golf course boundary) is characterised by predominantly single and two storey dwelling houses, as well as a number of seniors housing sites that are located in proximity to the site. The Bayview Gardens Retirement Village, operated by Aveo, is located approximately 100 metres to the east of the site, fronting Cabbage Tree Road and Annam Road. Peninsula Gardens is located further to the west on Cabbage Tree Road and Minkara Retirement Resort is located on Minkara Road to the north of the site.

RELEVANT HISTORY/ BACKGROUND

On 11 August 2014, a previous SCC application for a similar development was lodged with the DPE. Council provided a detailed response (dated 10 September 2014) to the DPE, raising concerns with regard to permissibility, tree removal, hazard affectations, access, character, height, compatibility, bulk and scale.

On 6 January 2015, DPI refused the previous SCC application for the following reasons:

1. *The proposed height, scale and built form is out of character with the surrounding residential area, which predominantly consists of 2 storey single detached housing in a heavily landscaped environment.*

2. *The site is classified as flood prone land and insufficient evidence has been provided to demonstrate development potential or to ensure that there would be no adverse impact on surrounding land uses or risk to life and property.*
3. *The proposal would have significant environmental implications for existing flora and fauna (including potentially threatened species) and the adjacent wildlife corridor. Limited evidence or consideration has been provided to address the potential direct and indirect impacts of development or mitigation measures.*

On 14 July 2015, a pre-lodgement meeting was held between the Applicant and Council staff with regard to an amended proposal.

A subsequent SCC application was lodged with the DPE in February 2016. Council received notification of the lodgement of the SCC application. Council voluntarily notified the SCC application to nearby residents, noting that there is no statutory requirement for the notification of SCC applications. In response to the notification of the SCC application, the Department received 53 public submissions, including a petition with 39 signatures and a report by a planning consultant on behalf of local residents.

On 3 May 2016, Council provided a comprehensive response to DPI, reiterating concerns raised with the previous SCC application, specifically permissibility, tree removal, hazard affectations, character, height, compatibility, bulk and scale. In particular, the Council provided DPI with legal advice with respect to the application of SEPP (HSPD) on land affected by geotechnical hazards.

On 4 April 2017, Council received notification that an SCC had been issued with respect to an amended application, with the proposed development footprint no longer on land affected by geotechnical hazards.

A pre-lodgement meeting was held with Northern Beaches Council officers on 24 August 2017, and the subject Development Application (DA) was lodged with Council on 19 December 2017.

DEVELOPMENT APPLICATION HISTORY

The DA was lodged with Council on 19 December 2017. The assessment of the proposal found that the application was deficient and unsupportable for a number of reasons as detailed within this report.

An opportunity was presented to the applicant to withdraw the application by letter dated 30 April 2018 with a view addressing the specific concerns and preparing the required information then resubmitting at a later date. The applicant was advised in that letter that failure to withdraw the application would result in Council reporting the application based upon the information provided at lodgement.

The Applicant responded on 15 May 2018, stating that the application will not be withdrawn and that the applicant will be submitting additional information to assist in the preparation of the report to the Panel.

The Applicant provided the following information during the course of the Assessment of the DA:

Date	Information Received
5 June 2018	<ul style="list-style-type: none"> • Ethos Urban Response to Northern Beaches Council Letter; • Legal Advice in relation to the size and scale of the proposed being increased in comparison to the approved as part of SCC, and in relation to the permissibility of the Flood Mitigation Works. • A Letter from Applicant's Traffic consultant.
19 June 2018	A letter from the Surveyor confirming that the footprint of the proposal is within the boundaries of the Map identified in Schedule 2 of the SCC.
2 July 2018	Various responses from the Applicant addressing the referral response from: <ul style="list-style-type: none"> • Flood Engineer; • Development Engineer; • Heritage officer; • Parks, Reserve, and Foreshores; and • Natural Environment (Riparian).
4 July 2018	A response from the Applicant to address the referral response from: <ul style="list-style-type: none"> • Natural Environment (Biodiversity).
12 July 2018	<ul style="list-style-type: none"> • Revised Bushfire Report; and • Response to Landscape referral comments.

Despite the fact that the above additional information was submitted late in the process, Council has considered the above information in the assessment of the application.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks development consent for:

1 Golf Course Upgrade

The works involve significant regrading and reconfiguration of the 18-hole golf course and flood mitigation works, including raising sections of the golf course. The development also includes revegetation, providing new pathways, and the construction of a new maintenance shed for the storing of maintenance equipment to replace the existing shed.

The proposed upgrade to the golf course is shown in Figure 3 below.

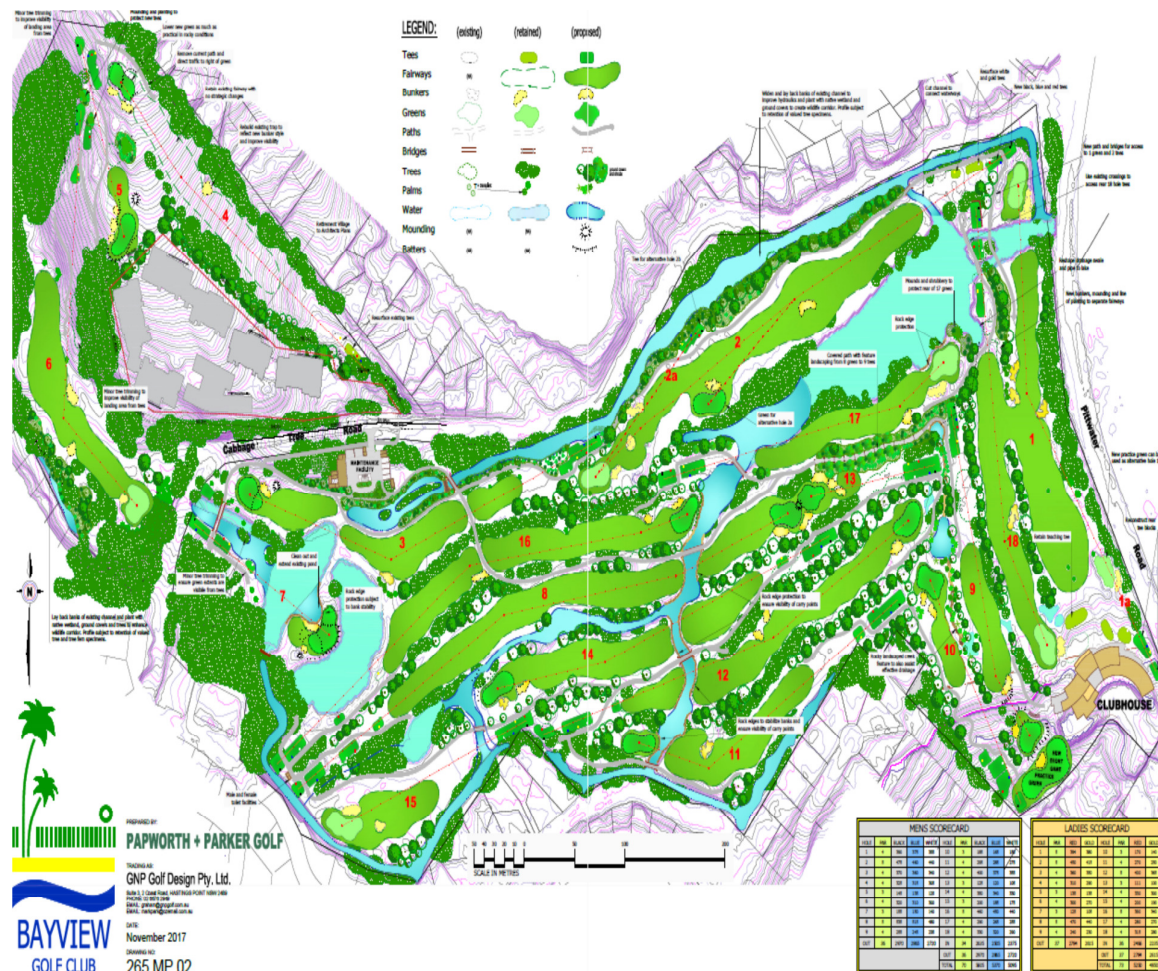


Figure 3 - Golf course upgrade works plan (Source: Adapted by the author from Plan 'DA1.02.04 – Revision A', prepared by Marchese Partners)

Further detail of the Golf Course Upgrade is provided as follows:

Reconfigured 18-Hole Golf Course

The applicant seeks to reconfigure the existing course to accommodate the development whilst remaining an 18-hole golf course. This includes the relocation of holes on the north-western side of Cabbage Tree Road, surrounding the proposed seniors housing development.

New Golf Course Maintenance Facility

The existing golf course maintenance facility, which is located southern side of Cabbage Tree Road, immediately adjoining the 3rd fairway, is proposed to be demolished and replaced with new golf course maintenance shed to be located at the same location.

The height of the proposed maintenance shed is 5.2m.

Flood Mitigation Works

The Flood Mitigation works as proposed includes:

- Rehabilitation of the creek lines through the course and widening of the channel along the northern boundary of the golf course (parallel to Cabbage Tree Road);
- Raising all proposed fairways to RL 1.20m AHD, which is between 0.2 and 0.5 m higher than existing surface levels;
- The removal of an existing earth stockpile on the southern side of the golf course;
- Cutting a new creek line to connect the flow path along the southern edge of the golf course; and
- Upgrade the existing pipe under Cabbage Tree Road and installation of culverts under the proposed driveway for the senior's housing development.

Golf Course Pathway

New pathways are proposed as part of the upgrade, which includes:

- New and retained bridges over the waterways throughout the course;
- Covered path with feature landscaping between the 8th green and 9th tee; and
- Removal of some existing paths and replacement to the side of reconfigured fairways.

Revegetation Works

A Conservation Management Plan (CMP) has been submitted with the application. The CMP, which is prepared by Anne Clements & Associates for the golf course upgrade works proposes revegetation works of the entire golf course.

2 Senior's Housing (Self Contained Dwelling)

The proposal involves the construction of seniors housing development to be located on the northern half of the golf course (being north-west of Cabbage Tree Road), comprising of 95 units spread across seven separate buildings and associated landscaping works.

The development also includes the construction of a new internal road to provide access into the proposed seniors housing development from Cabbage Tree Road, a round-about on Cabbage Tree Road (and associated pedestrian crossing), and construction of an access pathway from the site through to the bus stop on the eastern side of Annam Road.

The proposal subject to the seniors housing component is limited to a 1.897 hectare (18970m²) (approximately) building footprint within the north-western portion of the site, which the portion of the site that is the subject of the SCC. The SCC is confined to the area outlined in yellow on the map referred to in Schedule 2 of the SCC (refer to Figure 4).



Figure 4 - Site Boundary for Senior's Housing (Source: Schedule 2 of the SCC, prepared by Cardno)

Figure 5 below is provided to assist in the identification of the proposed buildings within the portion of the site proposed to be developed for seniors housing.



Figure 5 - Proposed building arrangement (Source: Adapted by the author from Plan 'Site Analysis 03' – Revision A, prepared by Marchese Partners)

Further detail of the seniors housing development is provided as follows:

Basement Levels

A three level basement is proposed for the seniors housing development, providing a total of 186 parking spaces. The basement level also includes parking for buggys and storage cages for the residents.

Blocks A and B

Block A and B are located towards the eastern boundary of the seniors housing development and are 3 storeys in height, and comprising of:

- Block A provides for a total of 12 units, with a maximum height of 9.8m; and
- Block B provides for a total of 13 units, with a maximum height of 9.5m.

Blocks C and D

Blocks C and D are located at the northern end of the seniors housing development. Block C will be 3 storeys and Block D is 4 storeys, comprising of:

- Block C provides for a total of 12 units, with a maximum height of 9.78m; and
- Block D provides for a total of 18 units, with a maximum height of 11.20m.

Blocks E and F

Blocks E and F are located at the western end of the seniors housing development. Both buildings are 4 storeys in height and comprise of:

- Block E provides for a total of 19 units, with a maximum height of 14m; and
- Block F provides for a total of 21 units, with a maximum height of 13.99m.

Facilities Building

The proposed facility building is located towards the southern boundary of the senior's housing development and is 3 storeys in height, with a maximum height of 7.97m. The facilities building include the following uses:

- Reception area;
- Café, winery, and a restaurant with an attached bar and lounge area;
- Residents lounge, swimming pool and spa, with attached steam room and sauna;
- Gym, hair salon, games room, arts/crafts room, cinema, massage and manicure rooms; and
- Offices, library; and terrace area.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See the 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	<i>Pittwater 21 DCP</i> is applicable to this application.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None Applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p>The <i>EPA Regulations 2000</i> requires the consent authority to consider the provisions of the Building Code of Australia. This matter can be addressed via a condition of consent should this application be approved.</p> <p>Clause 92 of the <i>EPA Regulations 2000</i> requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter can be addressed via a condition of consent should this application be approved.</p> <p>Clause 50(1A) of the <i>EPA Regulations 2000</i> requires the submission of a Design Verification Statement from the designer at lodgement of the development application.</p> <p>A Design Verification Statement was submitted with the Development Application and has been signed by the project architect.</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. The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Pittwater 21 DCP</i> section of this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable.</p> <p>ii. The development will provide seniors housing in the locality and upgrade the Bayview Golf Course, therefore the development ensures that the housing stock caters for a broad cross section of the community. In terms of the provision of housing, the proposed development will not have a detrimental social impact on the locality.</p> <p>iii. The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed land uses.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is not considered to be suitable for the development given its location within an area which renders the development to be inconsistent with its desired future character.
Section 4.15 (1) (d) – any submissions	The public submissions received in response to the

Section 4.15 'Matters for Consideration'	Comments
made in accordance with the <i>EPA Act</i> or <i>EPA Regs</i>	proposed development are addressed under 'Notification & Submissions Received' within this report. Several issues were raised which warrant the refusal of the application.
Section 4.15 (1) (e) – the public interest	<p>The provision of Seniors housing in the locality is generally in the broader public interest.</p> <p>However, the various controls contained within <i>Pittwater LEP</i> and <i>P21 DCP</i> provide the community with a level of certainty as to the scale and intensity of future development and the form and character of development that is in keeping with the desired future character envisaged for the locality.</p> <p>This assessment has found the development to be inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the locality and is therefore not considered, in its current form, to be in the localised public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights do not apply to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The Development Application has been publically exhibited in accordance with the *EPA Act*, *Environmental Planning and Assessment Regulation 2000* and *Pittwater 21 DCP*. As a result of the public exhibition process, Council is in receipt of a total of 567 submissions received, which includes:

- One hundred and sixty three (163) individual submissions and 1 petition with 7199 signatures objecting to the proposal; and
- Four hundred and three (403) individual letters in support of the proposal.

Assessment of Residents Issues

The relevant matters raised within the submissions have been considered and are addressed as follows:

1. Traffic congestion

A number of submissions received raised concern that the traffic produced by the development will exacerbate the already congested Cabbage Tree Road and adjoining local road network.

Comment:

The DA is accompanied by a traffic report prepared Transport and Traffic Planning Associates. The report provides an assessment of the impact of traffic increase by the development based upon the traffic generation rates produced by the Roads and Traffic Authority. The report finds that the development would increase traffic along Cabbage Tree Road and surrounding road network by an additional 20 to 30 vehicles per hour in the peak periods (being the worst case scenario).

Therefore, in that report, the applicant's traffic engineer concludes that:

- *There will not be any unsatisfactory traffic capacity, safety or environmental related implications;*
- *There will be a suitable and appropriate parking provision for the nature of the development proposed; and*
- *There will be suitable vehicle access internal circulation and servicing arrangements.*

Council's Traffic Engineer has reviewed the traffic report and has found that the nett increase in traffic will not have an adverse impact on the surrounding road system or the operating capacities of nearby intersections. In this regard, the conclusions reached by the consulting traffic engineer are generally concurred with by Council's Traffic Engineer.

Therefore, this issue should not be given determining weight.

2. Building Height

Concerns are raised that the development does not comply with the Height of Buildings Development Standard under the *PLEP 2014* and that Clause 4.6 does not appear well founded to vary height control and would not result in a public interest benefit.

Comment

This matter has been addressed later in this report (refer to the 'Detailed Assessment of the Variation to Clause 4.3 – Height of Buildings Development Standard' under the *PLEP 2014*).

The development is assessed against the Height of Buildings Development Standard under the *PLEP 2014* and has been appropriately considered in relation to the requirements of Clause 4.6 where it was found that the development is inconsistent with the objectives of the Development Standard and the zone.

This issue constitutes a reason for the refusal of the application.

3. The character of the area

A significant number of submissions raised concern that the development is not consistent with the Desired Character of the area.

In particular, the submissions cite that the height, built form, scale and density of the development is not in keeping with the low density, traditional character of the area.

Comment

This issue has been discussed at length throughout this report and forms a reason for the refusal of the DA. In summary, it has been found that the development is inconsistent with the current character of the area as required under the provisions of *SEPP 65* and *SEPP (HSPD)*. Additionally, it has been found that the development is inconsistent with the Desired Character of the Mona Vale locality as identified under *P21 DCP*.

4. Creation of an undesirable precedent

The submissions raise concern that the approving of the development would create an undesirable precedent for similar types and/or scales of development in the area.

Comment

In accordance with the provisions of the *EPA Act 1979* and the *EPA Regulation 2000*, Council is required to assess all development applications that have been lodged with

Council on an individual basis and against the relevant planning controls, which apply to sites at the time of lodgement.

Accordingly, the issue in relation to the precedent does not warrant the refusal of the application.

5. Impact upon existing infrastructure

The submissions raise concern that the existing infrastructure will not be able to support a Development of this scale.

Comment

The provision of infrastructure is managed by the relevant providers (i.e.: telecommunications, water, electricity etc.). In this regard, it is unlikely that the development would impose a strain upon the provision of those services. If the application was recommended for approval, conditions would be included which will require approval by Sydney Water for access to Sydney Water's sewerage infrastructure prior to the issuing of a Construction Certificate.

Therefore, this issue should not be given determining weight.

6. Impacts upon neighbouring residential amenity

The submissions raise concern that the development will have an adverse impact upon areas of residential amenity such as visual privacy and noise. In particular, the submissions cite that the top floor of the proposal will have a clear view into dwellings that are located Barkala estate as well as into the rear yards of Annam road properties.

Comment

These issues have been discussed at length throughout this report. In summary, it has been found that the development has generally satisfied the various requirements to manage visual and acoustic privacy.

Therefore, this issue should not be given determining weight.

7. Overdevelopment

The submissions raise concern that the development will result in an overdevelopment of the site.

Comment

The proposed development does not comply with the density and scale as prescribed in Clause 50 of *SEPP (HSPD)*. If a proposal complies with that standard it cannot be used to refuse consent. However, as the proposed development does not comply with that clause, the proposal can be considered to be an overdevelopment of the site if it's found to be incompatible with the character of the area, as established by the LEC in *Salanitro-Chafei v Ashfield Council [2005] NSWLEC 366*. The case establishes a threshold of density at paragraph 27, which states:

27 The above [reference to SEPP Seniors and SEPP 53] suggests that there is a general acceptance by the planning profession that an open suburban character is most easily maintained when the FSR of buildings does not exceed 0.5:1. The question raised above may therefore be answered thus:

The upper level of density that is compatible with the character of typical single-dwelling areas is around 0.5:1. Higher densities tend to produce urban rather than

suburban character. This is not to say that a building with a higher FSR than 0.5:1 is necessarily inappropriate in a suburban area; only that once 0.5:1 is exceeded, it requires high levels of design skill to make a building fit into its surroundings

As detailed in this report, the proposed development in terms of built form is found not to be sympathetic to the character of the location and its interface with low density residential development adjoining the site. In this regard, the proposal is considered to be overdevelopment of the site.

This issue constitutes a reason for the refusal of the application.

8. Inconsistency with RE2 Private Recreation zone objectives

Concerns have been raised that the proposed development is inconsistent with the zone objectives and future form of development envisaged for the zone.

Comment:

The proposal's consistency with the objectives of the RE2 zone is considered under the *PLEP 2014* section of this report. In summary, the proposed development has been found to be inconsistent with the objectives of the zone and this issue has been included as a reason for refusal.

9. Site Compatibility Certificate

A number of submissions received have cited that the assessment of the SCC by the DPI lacked the appropriate level of detail and accuracy and has raised concerns over the determination process of the SCC.

Comment:

The assessment and the issuing of SCC is not matter for Council to consider as part of the assessment of this application, however it is noted that there is an inconsistency with the proposal as lodged and SCC.

Environmental Impacts

Several submissions were received which raised concerns regarding the impact upon the natural environment, with particular regards to the site being identified as a wildlife corridor, the impact upon habitat and the level of tree removal proposed. The following specific concerns have been raised:

- Removal of trees and habitat here will prevent wildlife from moving between the coast at Winnererremy Bay Mona Vale and major habitat areas around Katandra Bushland Sanctuary and Nangana Road Bayview.
- Concern for the Powerful Owls who inhabit this wildlife corridor and reduction in habitat for ringtail possums will reduce this source of food for Powerful Owls.
- Powerful Owls require a buffer zone of 50m radius around roost sites and a 100m radius around nest trees.
- Each Powerful Owl needs a 2km radius around their nest tree to forage.
- Removal of trees and habitat here will prevent wildlife from moving between the coast at Winnererremy Bay Mona Vale and major habitat areas around Katandra Bushland Sanctuary and Nangana Road Bayview.
- The removal of so many trees will have the effect of increasing temperatures at ground level in the vicinity, increasing stormwater runoff and worsening air quality.

- The proposal will mean lineal fragments of bushland only will remain which are lower quality due to edge effects including weed invasion, light spill and cat and dog predation.
- It is not equitable to remove an established section of habitat to replace it with an immature section of plantings which will take time to mature.
- The proposed development will reduce the available habitat for Wallabies.
- *The wildlife corridor will be thinned down from 350m to 110m near the proposed development.*
- *The difference in the number of canopy trees between proceeding with S96 No: 402/06S96/3 and the proposal currently being offered is a net total of -300 trees.*

Comment:

This issue is addressed in the relevant section dealing with P21 DCP in this report and within the referral section by Council's Landscape officer and Natural Environment (Biodiversity) Section. In summary, the impact on the natural environment is found to be unsatisfactory and includes as a reason for refusal.

10. Visual Impact

Concerns have been raised that the proposed development will result in an unreasonable visual impact on the locality, particularly at night.

Comment:

This issue is addressed in detail throughout this assessment report. In summary, the development is considered to result in an unsatisfactory visual impact and this issue constitutes a reason for the refusal of the application.

11. Inconsistency with the requirements of *SEPP (HSPD) 2004*

Concern has been raised that the proposed development is inconsistent with the requirement of the *SEPP (HSPD)*. The following specific concerns have been raised:

- The proposal's inconsistency with Clause 33 of the *SEPP (HSPD) 2004*.
- The site is flood affected (Schedule 1) land and should not be considered under the *SEPP (HSPD) 2004* as it is not permitted.
- Developments of 4 storeys are not allowed under the *SEPP (HSPD) 2004*.

Comment:

The proposal's consistency with the objectives and standards of the *SEPP (HSPD) 2004* is considered under the *SEPP (HSPD)* section of this report. The requirement of Clause 33 is also addressed in this section. In summary, the proposed development has been found to be inconsistent with a number of the standards and requirements of this policy and these inconsistencies have been included as reasons for refusal.

The site is not mapped under *PLEP 2014* as being flood affected, therefore the flood affected as listed in Schedule 1 of the *SEPP (HSPD)* is not applicable to the proposed development.

12. Construction related impacts and site dewatering

Concern is raised regarding the excavation and construction impacts associated with the development and the potential impact on the water table.

Comment:

Due to the slope of the land, excavation at variable depth is proposed up to 12.6m (RL 6.2).

The application was referred to the NSW Office of Water as Integrated Development due to the intersection with the water table and the requirement to dewater and tank the below ground levels.

The NSW Office of Water did not raise any objection to the proposal and granted their General Terms of Approval on 10 April 2018 (refer to the 'Referrals' section in this report) which includes conditions that are required to be imposed in consent should this application be approved.

With regards to excavation and construction management, appropriate conditions which aim to minimise impact can also be imposed in a consent should this application be approved.

Therefore, this issue should not be given determining weight.

13. Flood Mitigation Works are Prohibited Development

Concern has been raised that flood mitigation works are prohibited development.

The permissibility of the development is discussed under the *PLEP 2014* section of this report. In summary, flood mitigation works are prohibited development for the seniors housing component of the development under *PLEP 2014*, and this issue has been included as a reason for refusal.

14. Emergency trail to Barkala Estate

Concerns have been raised that the proposed development (with regards to pedestrian and emergency access) relies on the adjoining private land, which is currently designated as an emergency vehicles access trail for the Barkala Estate. The submissions states that no consent is given for such works to take place on this private land.

Comment:

The applicant has indicated that the proposed development will not use the adjoining private land and therefore no owners consent is required. However, it is noted that the applicant revised Bushfire Report, as prepared by Building Code & Bushfire Hazard Solutions states that "*emergency trail to Barkala Estate that runs adjacent to this site onto this fairway which the fire brigades can use in an emergency*"

Accordingly, the issue raised is concurred with.

15. Land that adjoins land primarily for urban purposes

Concerns have been raised that the portion of the site proposed to be developed for seniors housing is not land that adjoins land primarily for urban purposes, as required by Clause 5 (b) of the *SEPP (HSPD)*.

Comment:

There are a number case laws established by the LEC, which have held that in order to satisfy the "adjoining test" it is not necessary for the site to be conterminous with (that is, have a common boundary with) or be immediately adjoining land. It is sufficient for the site to be 'near to' or 'neighbouring on' or is in 'sufficient proximity' to a locality primarily used for urban purposes. In this regard, the LEC judgement in "*Wirrabarra Village Pty Limited v The Hill Shire Council*" held that a distance of 71.7m for the corner of the development was sufficient proximity to the R2 zone to be adjoining.

The proposed site is setback approximately 39m at the closed point and increases to 91m, therefore the proposed development is considered to be adjoining.

Therefore, this issue should not be given determining weight.

16. Omissions in Support Documents

It is claimed that the documentation accompanying the DA omits major area of concerns, namely:

- *Descriptions of lot and plan details are different from the SCC to the DA application.*
- *No assurance that the proposed conservation plan of management will be enacted.*
- *Design for crime prevention is insufficiently addressed.*
- *Insufficient information has been submitted the address the threatened species.*
- *Claim of the application being wilfully misleading in regards to the thin red line used to demonstrate the height of buildings in images, as well as fully mature vegetation, which in reality will take a considerable period of time to establish.*
- *No management plan provided as to who will provide 'on-site services' relating to health and how this will occur, what space will be used to house these services.*
- *The application's visual impact assessment has been done excluding the width of the trail and should have been done from the border of the Bayview Golf Course with the adjoining trail.*
- *Site area in the SEE sometimes referred to as 9.85ha, and then at other times as the full size of the golf course:*

"Separating the land for which consent is being requested in DA2017/1274 into land for which you can and cannot build for SEPP HSPD should not be done, as the Bayview Golf Club development application consent is being requested across all lots of land for ALL development work."

Comment:

The supporting documentation submitted with the DA describes the proposed development and provides information for Council to determine whether the proposal complies with all relevant controls. Council undertakes its own assessment of the proposal and considers the expert reports provided by the applicant. In this regard, the information provided by the applicant is not always agreed with or relied upon. Where Council cannot complete the assessment due to insufficient or inadequate information, the applicant may be requested to provide additional details or that issue will be included as a reason for refusal.

In this case, the assessment has identified a number discrepancies with the application, and there is also conflicting information in relation to the site area for the seniors housing, type of housing that is proposed, inconsistency between the proposal and the SCC issued for the site. There is also conflicting information in relation to various report and plans.

The issues raised in relation to the documentation are concurred with in part, and included as reason for refusal where relevant.

Letters in Support

The following is a summary of the letters received in support of the application.

1. Accommodation

- *The proposal adds to the supply of seniors housing in the area.*
- *The proposal provides a 'premium' level retirement facility which is currently lacking in the area.*
- *The proposal will help to entice seniors and retirees into downsizing from existing detached housing stock.*
- *The proposal will help to reduce a shortfall in seniors housing supply in the region.*
- *The proposal will provide more seniors accommodation in an area that is not part of the already dense development clusters of Pittwater Road.*
- *The proposal will be located close to the existing medical and consulting rooms at Mona Vale which is a boon for the older generation.*

2. Environment

- *Establishes the wildlife corridors under the guidance of Dr Anne Clements, whereas there corridors, in our community, are currently 'established' as a generalisation from a 1990's era consultant report.*
- *The proposal supports the establishment and creation of currently non-existent wildlife corridors.*
- *The proposal will re-establish native vegetation to more than 6 hectares of the course. The majority of trees on the western side of Cabbage Tree Road will be retained and supplemented in some instances. The 4th and 6th holes will under the proposal form wildlife corridors.*
- *On balance the proposal is a net positive for the environment.*
- *The proposal addresses all relevant wildlife & environmental issues.*
- *The proposal will eliminate the foxes and lantana currently flourishing unrestrained on the subject site.*
- *Fauna populations will increase as the overall habitat is increased.*
- *The Swamp Wallabies do not come down as far as the golf course so will not be affected by changes.*
- *The negative environmental impacts have been exaggerated in the media.*
- *The proposal will mitigate the effects of climate change through the raised land level.*
- *The trees being removed are primarily pine trees and do not represent a food source for native fauna.*

3. Bayview Golf Club

- *Raising areas of the golf club will help to climate change proof the club and allow for golf to be played on more days throughout the year.*
- *The proposal will increase the quality of the existing 18-hole golf course.*
- *The club is a popular local community facility and the proposal will ensure it is financially stable into the future.*

- *Loss of the club due to financial difficulties is likely to reduce property values in the area.*
- *The golf course contributes to healthy lifestyles, local jobs and promotion of local business.*
- *The proposal will drive membership at the Bayview Golf Course.*
- *Events held at the club include a bridge club, Pilates, monthly kid's movie night, market nights, wedding receptions, wakes and charity fundraising events as well as private functions.*
- *There will be more capacity for all types of golfers as the number of playable days throughout the year will increase as a result of less flooding if the proposal goes ahead.*
- *As many as 40,000 rounds of golf will be in jeopardy if the golf club cannot continue to run.*
- *The golf course employs 40 staff and provides apprenticeships and career opportunities.*
- *The golf course intercepts a lot of rubbish and weeds before they spread further down towards Pittwater.*
- *The golf course cultivates a sense of community in the local area and is inclusive of seniors.*
- *The proposal will free the golf club from all of its debt.*
- *Clubs within the community use the facility for fundraisers.*
- *Warringah Golf Course may shortly be reduced to 9 holes and Longreef Golf Course is often over capacity on busy days, so the continued operation of Bayview Golf Course is important in providing supply for this likely increasing demand.*
- *Ensuring the continued operation of the golf club with the proposal will avoid the Bayview Golf Course land being used for other potentially unfavourable uses such as residential development.*
- *The issue of dust being generated in and around the maintenance sheds which then drifts to neighbouring properties will be eliminated.*
- *Greenery will replace an otherwise graffiti fence adjacent to the golf course maintenance sheds.*

4. Infrastructure

- *The stormwater measures proposed will mitigate flooding effects to nearby residences.*
- *The proposal will stop Cabbage Tree Road from being flooded.*
- *The location of the proposal will be close enough to shops to encourage walking and improve community health.*
- *The application will provide a roundabout on Cabbage Tree Road which will help to calm this section of road which has proven to be dangerous in the past.*

- *Dangerous 3 point turns outside the golf course maintenance shed gates will be reduced as a result of the roundabout.*

5. Traffic

- *Aged care establishments by their nature tend to generate less traffic movements than other types of residential accommodation per capita.*
- *The proposed pedestrian underpass below Cabbage Tree Road will provide increased safety for pedestrians as it will take them out of potential conflict with traffic.*

6. Community

- *The proposal and subsequent continued success of the Golf Course will drive business and jobs growth in the area and provide greater access to services as a result for locals.*
- *Age diversity will be retained in the area through the supply of more over 55s housing.*
- *The proposal will transform the club into a top tier golf course which will improve tourism and recognition of the club and area generally.*
- *More jobs will be created through the development and construction of the proposal, through the Waterbrook Development itself and in surrounding businesses.*

7. Waterbrook (Developer)

- *Waterbrook, the developer, is held in high regard for previous developments (Yowie Bay & Greenwich) as well as consulting with the local community regarding potential projects.*

8. Application

- *The proposal is acceptable under state zoning requirements.*
- *The proposal is consistent with the aims of the LEP*
- *The proposal is sustainable under all the provisions of the Fisheries, Lands & Environment Departments.*
- *Approximately 3500 signatures on the petition opposing the application were received prior to the submission of application documents so they are not credible or relevant.*

MEDIATION

No mediation has been requested by the objectors.

EXTERNAL REFERRALS

External Referral Body	Recommendation/Comments
Department of Primary Industries (Water) (DPI Water)	<p>Refusal</p> <p>The application was referred to DPI Water as integrated Development, as the site is located within 40m of the watercourse. The DPI Water, by letter dated 16 May 2019 advised that they are not position to to properly assess the application and requires additional information.</p> <p>The application does not provide sufficient information to enable DPI</p>

External Referral Body	Recommendation/Comments
	Water to properly assess the application and so this is included as a reason for refusal.
NSW Rural Fire Services (NSW RFS)	<p>Approval subject to conditions</p> <p>The application was referred to the NSW RFS as Integrated Development.</p> <p>Section 100B of the <i>Rural Fires Act 1997</i> enables the Commissioner of the NSW RFS to issue a Bushfire Safety Authority for 'Special Fire Protection Purpose' development. Section 100B (6) of that <i>Rural Fires Act 1997</i> identifies Seniors Housing (within the meaning of the <i>SEPP (HSPD) 2004</i>) as such development.</p> <p>In their response on 30 January 2018, the NSW RFS issued their Bushfire Safety Authority and General Terms of Approval which are to be included a number of conditions, one which required that Asset Protection Zone (APZ) was encroaching into the Geotechnical Hazard Zone.</p> <p>The applicant has been liaising with NSW RFS to remove the APZ from the land mapped Geotechnical Hazard. As result, the applicant submitted a revised Bushfire Report on 9 July 2018.</p> <p>In their response on 12 July 2018, the NSW RFS issued their Revised Bushfire Safety Authority and General Terms of Approval which states that the proposed APZ "<i>excludes the the land mapped geotechnical hazard in the Pittwater LEP 2014</i>".</p> <p>The revised GTA are to be included in any consent should the Panel be of the mind to approve this application.</p>
NSW Water	<p>Approval subject to conditions</p> <p>The application was referred to the NSW Waster as Integrated Development. The NSW Water provided their General Terms of Approval (GTA) on 10 April 2018.</p> <p>The GTAs provided by the NSW Water may be included in a consent should this application be approved.</p>
Department of Primary Industries (Fisheries) (DPI)	<p>Approval subject to conditions</p> <p>The application was referred to the DPI as Integrated Development. The DPI provided their General Terms of Approval (GTA) on 25 January 2018.</p> <p>The General Terms of Approval (GTAs) provided by DPI may be included in a consent should this application be approved.</p>
Ausgrid	<p>No response received</p> <p>The application was referred to Ausgrid under clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.</p> <p>To date, no response has been provided and it is assumed that no objection has been raised with regards to the proposal.</p>
NSW Police	<p>Approval subject to conditions</p> <p>The application was referred to the NSW Police for consideration and comment.</p>

External Referral Body	Recommendation/Comments
	<p>In their response dated 12 February 2018, NSW Police advised that “<i>Plan of Management is required for the Development</i>” is required, and this requirement can be included as a condition should be application be recommended for approval.</p> <p>Notwithstanding the comments provided by NSW Police, an assessment of the development against the principles of CPTED has been conducted and is included in this report.</p>

INTERNAL REFERRALS

Internal Referral Body	Recommendation/comments
Building Assessment - Fire and Disability upgrades	<p>Approval subject to conditions</p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p>
Environmental Health (Industrial)	<p>Approval subject to conditions</p> <p>No objection subject to conditions.</p>
Parks, Reserve, Beaches, Foreshore	<p>Approval subject to conditions</p> <p>No objection subject to conditions.</p>
Waste Officer	<p>Approval subject to conditions</p> <p>No objection subject to conditions.</p>
Strategic & Place Planning (Heritage Officer)	<p>Approval subject to conditions</p> <p>The proposal seeks consent for the construction of a 95 unit seniors living complex on the northern portion of the golf course, along with associated works, new maintenance sheds and general upgrade works to the entire golf course.</p> <p>The seniors living facility and maintenance shed are located a considerable distance from the current location of the heritage listed statues. However the golf course upgrade works do propose works to the 1st and 18th holes, which are located on either side of the heritage listed statues. These works include the replanting of vegetation, rising of fairways and other associated works.</p> <p>It is of concern that the Golf Course Masterplan, the Statement of Environmental Effects and the plans for this application do not mention or recognise that there is a heritage item located on the golf course grounds. It is assumed that the elephant statues will not be removed or moved as part of these works, as there is no mention on the plans or submitted reports. As the land contains a heritage item, there should have been a Heritage Impact Statement submitted (either a separate report or addressed as part of the Statement of Environmental Effects).</p> <p>The works to the golf course are considered relatively minor and unlikely to impact the statues, however it is important that they are retained and protected at all times during the golf course upgrade works. The new seniors housing development will not impact upon this heritage item, given that they will be separated from the new development by the existing golf course.</p>

Internal Referral Body	Recommendation/comments
	<p>On this basis, no objections are raised to this application on heritage grounds, subject to the imposition of condition requiring the retention of these heritage listed statutes and their protection at all times during construction works.</p>
<p>Natural Environment and Climate Change (Bushland and Biodiversity)</p>	<p>Refusal</p> <p>This referral response has been prepared to address additional information and submissions in relation to DA2017/1274.</p> <p>Summary</p> <p>With consideration of the additional information submitted to Council (Clements et al 2018), Council's Natural Environment and Climate Change – Biodiversity section recommends refusal of the DA based on non-compliance with Section 5a of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act).</p> <p>The proposal is also inconsistent with the Pittwater LEP Part 7.6 Biodiversity Protection and Pittwater 21 Development Control Plan 2014 Control B4.6 Flora and Fauna Enhancement Category 2 and Wildlife Corridor.</p> <p>Detailed Assessment</p> <p>1. Section 5A of the <i>EPA Act</i></p> <p><u>Application of Relevant Planning Provisions</u></p> <p>The initial development application was submitted under Part 4 of the EP&A Act 1979 in December 2017. The application was therefore submitted prior to commencement of the new <i>Biodiversity Conservation Act 2016</i> (BC Act 2016) and constitutes a 'pending or interim planning application' as defined under Part 7, Clause 27 (1) (e) of the <i>Biodiversity Conservation (Savings and Transitional) Regulation 2017</i>. Part 7, Clause 28 of the regulation identifies that the application is to be assessed under the former planning provisions which include Section 5a of the EP&A Act 1979.</p> <p>Additional information submitted by the applicant in July 2018 includes a comparison (refer to Clements et al 2018, section 2B.1) between the legislative requirements for the 'Assessment of Significance' under Section 5a of the EP&A Act 1979 and the new assessment requirements under Section 7.3 of the BC Act 2016. Appendix 4 of the additional information (Clements et al 2018) includes assessments of impacts upon threatened species prepared in accordance with Section 7.3 of the BC Act 2016. As identified above, the application should have included Assessments of Significance prepared in accordance with the former planning provisions and therefore, the impact assessments in Appendix 4 of the additional information are not valid.</p> <p>As identified by Clements et al 2018, the main difference between the relevant planning provisions is that Section 5a of the EP&A Act 1979 requires that the assessment consider 'whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan.' The approved Recovery Plan for Large Forest Owls (DECC 2006) is considered relevant to the application given usage of the site by Powerful Owls and proximity of the development site to an active nest. The National Recovery Plan for Magenta Lilly Pilly</p>

Internal Referral Body	Recommendation/comments
	<p>Syzygium paniculatum (OEH 2012) is also applicable to the proposal given the occurrence of this species in proximity to the site. Of further relevance are the more recently published threatened species recovery strategies and actions identified online within the NSW Office of Environment and Heritage threatened species profiles and as part of the associated Saving our Species program.</p> <p>On the basis of the above, the impact assessments provided as additional information do not adequately address the former planning provisions including Section 5a of the EP&A Act.</p> <p><u>Assessment of Rhodamnia rubescens – Scrub Turpentine – Preliminary listing as Critically Endangered</u></p> <p>The additional information and impact assessment (Clements et al 2018, appendix 4) completed for <i>R. rubescens</i> identifies that the habitat of this species will not be modified or impacted by the proposal. Council staff have recently identified the occurrence of habitat and an individual plant within the development footprint, close to the proposed maintenance facility shed and associated infrastructure. The recorded individual appeared to be suffering from myrtle rust; however, the trunk was alive at the time of observation.</p> <p>On the basis of the above, further assessment is required in relation to the occurrence of this species on site.</p> <p>2. Planning Instruments</p> <p><u>Pittwater LEP 2014 Part 7.6 Biodiversity Protection</u></p> <p>The proposal does not comply with Pittwater LEP 2014 Part 7.6 Biodiversity Protection with reference to the following:</p> <p>Before determining a development application for development on land to which this clause applies, the consent authority must consider:</p> <p style="padding-left: 40px;"> <i>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</i> <i>(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or</i> <i>(c) if that impact cannot be minimised - the development will be managed to mitigate that impact.</i> </p> <p>In relation to siting of the proposal and impacts upon biodiversity, it is located within a heavily modified environment (golf course fairway as opposed to natural bushland); however, a large number of significant mature trees require removal within the development footprint. Large trees on this site are considered to have a high ecological value and contribute to canopy connectivity within a mapped wildlife corridor. Measures including the proposed conservation works and replanting of trees are noted but considered a very long term investment which does not sufficiently mitigate the impacts resulting from the proposal. The loss of significant canopy trees onsite is therefore considered to be inconsistent with Part 7.6 Biodiversity Protection of the Pittwater LEP 2014.</p> <p><u>Pittwater 21 DCP parts Control B4.6 Flora and Fauna Enhancement Category 2 and Wildlife Corridor</u></p> <p>The additional information has clarified some inconsistencies between</p>

Internal Referral Body	Recommendation/comments
	<p>the bushfire protection requirements and proposed retention of trees identified in the arborist report adjacent to the development.</p> <p>Due to the bulk and scale of the proposed development, approximately 50% of the width (measured from north-east to south-west) of the mapped high priority wildlife corridor will be blocked by infrastructure, diminishing connectivity within the local landscape. Uncertainty remains about the proposed 'thickening' of fairway vegetation within the required APZs close to the development and how the proposed conservation areas surrounding the development area are able to be managed and still be an APZ. On balance, the proposal is considered to be inconsistent with Pittwater 21 DCP Control B4.6 Flora and Fauna Enhancement Category 2 and Wildlife Corridor.</p>
Natural Environment and Climate Change (Riparian Lands and Creeks)	<p>Refusal</p> <p>Based on subsequent advice received from Department of Industry - Water, Council has reconsidered its position and concurs with the request from the Department of Industry - Water for additional information to support the assessment of this application.</p>
Landscape Officer	<p>Refusal</p> <p>Concern is raised that the landscape proposal, in terms of achieving or maintaining a landscape character to satisfy SEPP 2004 and Pittwater DCP21, is impacted by restrictions in providing sufficient landscape to parts of the development site.</p> <p>It is considered that the built form viewed from Cabbage Tree Road, when travelling east to west, will dominant the landscape. The combined built massing of the Facilities building, Block A, Block B, Block C, and the associated roadway entrance and driveway will result in a dominant built form that is not capable of integrating with the landscape.</p> <p>This is caused by the removal of existing trees along the Cabbage Tree Road frontage for driveway access and roadway construction. It is likely that upgrading existing utility services for this development will result in the further removal of existing trees.</p> <p>The Facilities building Block A, Block B, and Block C are located over basement parking. As such large canopy trees, which are the character of this area, will not be successfully established. The built form of the Facilities building, Block A, Block B, Block C, and the associated roadway entrance and driveway, will dominant the streetscape, contrary to the requirements of SEPP 2004 and Pittwater DCP21.</p> <p>Whilst landscaping, including small trees is possible over basements, the capability of basements to support large canopy trees is not physically viable in the long term.</p> <p>Blocks D, E and F are capable of being integrated into the landscape setting, as the adjoining areas are either open space, retained existing trees or proposed as deep soil between the buildings, which are nominated for common open space.</p> <p><u>SEPP (Housing for Seniors or People with a Disability) 2004</u></p> <p>The development does not recognise the desirable elements of the existing character of the area that is dominated by canopy trees with</p>

Internal Referral Body	Recommendation/comments
	<p>development located under the height of trees, and as such fails to meet the requirement set under 33. Neighbourhood amenity and streetscape, of SEPP 2004.</p> <p>The removal of a large number of existing trees and replacement with 7 buildings and a connected basement will change the physical and visual nature of the existing landscape character, changing the neighbourhood amenity and streetscape from a scenic landscape to a built form character.</p> <p><u>Pittwater DCP 21</u></p> <p>B.4.5 Landscape and flora and fauna enhancement is not satisfied, with development resulting in significant loss of tree canopy, and no immediate enhancement to habitat.</p> <p>Removal of flora and fauna is proposed to be replaced with biodiversity to be achieved through the Conservation Management Plan. In the short term, fauna is displaced and possibly never to return. Removal of old trees will take years to replace the physically and visually amenity created by the existing landscape.</p> <p>C1.1 Landscaping, outcomes that are not achieved including: A built form softened and completed by landscaping.</p> <p>The extent of the built form presented by the proposed Facilities building, Block A, Block B, Block C, all over a connected basement, and the associated roadway entrance and driveway, limits effective and substantial landscaping and tree canopy replacement to soften the built form.</p> <p>C1.24 Public Road Reserve and Infrastructure, is not satisfied, with no proposal included for a footpath 1.5m to the full width of the development, as required.</p> <p>D2.1 Character as viewed from a Public Place is not satisfied, with the development proposal failing to provide a built form that is secondary to landscaping and vegetation.</p> <p>The built form will dominate the streetscape due to loss of vegetation. Replacement will take years to achieve a portion of the current amenity achieved by the existing trees.</p> <p>The separation between buildings is not broken to reduce built form as the spaces are over basement and planting is limited.</p>
Development Engineers	<p>Refusal</p> <p>Following the review of additional information, Council's Development recommends refusal of the application due to insufficient information being submitted in relation to the Stormwater Management. In this regard, the following information is required:</p> <p>Stormwater Drainage from the Development</p> <p>The applicant is required to submit the DRAINS model for Councils review and also a summary information report/table of the parameters used in the development of the model.</p> <p>The report also indicates that rainwater storage will be provided for only</p>

Internal Referral Body	Recommendation/comments
	<p>33% of non-potable demand. This is not adequate for the size of the development and to demonstrate a commitment to WSUD initiatives the rainwater storage volume is to be increased to facilitate 100% of non-potable water demand.</p> <p>External drainage works.</p> <p>A Drains model and Hydraulic grade line analysis is to be submitted for the proposed twin 750mm stormwater line which captures and diverts upstream overland flows around the development to the downstream system. (5 year, 20year and 100-year ARI). Similarly, a Drains model and HGL analysis to be provided for the proposed twin box culverts that run under the entrance driveway.</p> <p>The current drainage depressions are to be filled and the connection to the upstream and downstream systems on both sides of Cabbage Tree Road is to be replaced with adequately sized mixing chambers/pits with letterbox openings above.</p> <p>Also a DRAINS model and HGL analysis is to be provided for the downstream drainage network of pits and pipes including the proposed Cabbage Tree Road culverts and connection to the downstream drainage channel.</p> <p>There is lack of detail in regard to the connection of the proposed upstream drainage system to the existing causeway/drainage channel located within the golf course near the greenkeepers compound. Civil engineering plans are to detail the extension and connection of the proposed upstream drainage system to the existing drainage channel noting that scour is to be minimised.</p> <p>Soil and water management plan.(SWMP)</p> <p>In accordance with the Managing Urban Stormwater - Soils and Construction handbook as the area of disturbance is greater than 2500m2 an SWMP addressing soil erosion and sediment pollution including calculations detailing the provision of a sediment basin is to be submitted to Council for review.</p>
Floodplain Engineer	<p>Approval (subject to Condition)</p> <p>A Flood Impact Assessment has been undertaken associated with modifications to the golf course to decrease the number of play days lost due to adverse weather/flooding conditions. An updated addendum dated 17 April 2018 was provided to confirm that the proposed works will have no adverse impacts on neighbouring properties. The addendum has confirmed that the adverse impacts associated with the civil works to the golf course are minimal and within the thresholds outlined in Council's Development Control Plan. The proposed seniors living development is located outside of the Probable Maximum Flood extent.</p> <p>Provided the proposed development complies with the recommendations outlined in the Flood Impact Assessments the application is recommended for approval subject to conditions.</p>
Parks, Reserve and Foreshores	<p>Approval subject to conditions</p> <p>No objection subject to conditions</p>
Traffic Engineer	<p>Approval subject to conditions (However, the removal of trees within Road Reserve is not supported)</p>

Internal Referral Body	Recommendation/comments
	<p>The applicant has provided a letter from their consultant stating that there is no issue with the trees and available sight lines. To confirm this, the applicant must submit a plan showing the sight lines and demonstrating that the trees are not located within the zone of influence.</p> <p>The proposal is for construction of 95 seniors living apartments on part of the Bayview Golf Course. A total of 186 onsite parking spaces will be provided in 3 basement levels with vehicle access located on Cabbage Tree Road at the eastern site boundary in the form of a roundabout.</p> <p>The parking provision is in compliance with the SEPP requirements and is acceptable. All parking spaces including the residential and visitor spaces are to be clearly signposted / line marked.</p> <p>A roundabout has been proposed to alleviate the implication of the traffic generating from the site at the vehicular access, also the proposal includes a pedestrian crossing facility at the splitter island as a replacement for the existing pedestrian refuge island on cabbage Tree Road. In the design of the roundabout and associated splitter islands, it should be taken into account that the eastern splitter island does not impact the access to the emergency vehicular access to the adjacent properties. Obtaining the approval is subject to submission of an application under section 138 to Council's development Engineering section and obtaining approval through Northern Beaches Council Traffic Committee. Any associated road adjustments such as road widening required for construction of the traffic facilities mentioned in above is to be undertaken by the applicant as part of the development.</p> <p>To provide pedestrian connectivity between the site and the adjacent bus stop as part of the SEPP requirements, the existing footpath has to be extended to connect the site's pedestrian access to the bus stop at Annam Road. Also, a pedestrian refuge island is to be constructed at the intersection of Cabbage Tree Road and Annam Road for seniors to be able to cross the road safely to access to the adjacent bus stop. The submission of an application under section 138 to Development Engineering section is required for the extension to footpath and provision pedestrian refuge island and approval is to be obtained through Traffic Committee.</p> <p>The trees/vegetation along the northern side of Cabbage Tree Road is to be cleared to achieve the Australian Standards requirements for minimum sight distance and stopping sight distance for vehicles exiting the site and vehicles approaching the roundabout from western side respectively.</p> <p>In view of the above, no objection is raised on the proposal subject to conditions.</p>

Urban Design Issues

Council has engaged the services of an external urban design consultant, Hill Thalys Architecture, to review the proposed development in terms of urban design issues. A copy of the Hill *Thalys report is attached*. (Attachment 3).

The report makes a number of important observations relating to the site and concludes that the proposed built form has not demonstrated a reasonable compatibility with the

character of the area due to the extent and scale of the proposal and the visual and amenity contrasts that would result from the proposed development.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, EPIs (State Environmental Planning Policies (SEPPs), Regional Environment Plans (REPs) and Local Environment Plans (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 EPIs (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)

A further consideration is required for the following State policies

SEPP (State and Regional Development) 2011

The proposed development does not constitute State Significant Development under SEPP.

Of more relevance, Clause 20 of the SEPP and Section 2.12 and 2.15 (previously 23G) of the EPA Act, identifies a range of developments that either due to their nature, scale, value, impact or location are deemed to be of regional significance and which, as a result, require that a regional panel become the consent authority.

In this regard, Schedule 7 of the SEPP indicates that development that has a capital investment value of more than \$30 million is of regional significance. As indicated on the DA form, the proposed development has a capital investment value of \$84,131,144.00. As such, the SNPP is the determining authority.

SEPP 65 - Design Quality of Residential Apartment Development

The development is required to comply with SEPP 65 and the associated Apartment Design Guide (ADG).

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report, Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a Design Verification Statement from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of the SEPP requires that in determining a development application for consent to carry out development to which SEPP 65 applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

a) The advice (if any) obtained from the design review panel, and

- b) *The design quality of the development when evaluated in accordance with the design quality principles, and*
- c) *The Apartment Design Guide (ADG).*

DESIGN REVIEW PANEL

Northern Beaches Council does not have an appointed Design Review Panel.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The portion of the land ('the site') proposed to be developed for senior's housing development contains the 4th, 5th, 6th and 7th holes of the Bayview Golf Course. This portion of the site is immediately bordered by Cabbage Tree Road to the east and low density residential development, which comprises predominantly 1 and 2 storey dwelling houses that are located to the north east of the site.

The Bayview Gardens Retirement Village is located approximately 100m to the east of the site, fronting Cabbage Tree Road and Annam Road. This development comprises predominately 2 storey townhouses fronting the streets and a 3 storey independent living/serviced apartments building that is located within the central portion of the site. There are also a number of other retirement villages within the vicinity of the Golf Course, such as the Peninsula Gardens Retirement Village, which is located further west on Cabbage Tree Road and Minkara Retirement Resort located on Minkara Road to the north of the site.

The key built form features of the area surrounding the site consist of single dwellings of between one and two storeys in height, of traditional style with pitched roof forms on landscaped allotments. The built features of the area are also supported by a local road network which is noted as being of a light carrying capacity which is reflective of the low density of the area. The key natural feature of the site is an open golf course, surrounded by open space and dense tree coverage.

In the context of the built environment, the development proposes the construction of 7 x three and four storey residential flat buildings in the middle of the Golf Course, which will introduce a high density/mid-rise development into an area currently characterised by low-density/low-rise detached residential dwellings. In this regard, the development is not considered to be consistent nor compatible with the key built features of the area.

The Desired Character of the Mona Vale locality, as described under Pittwater 21 DCP, states that the "*Existing residential areas [in the locality] will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape*". The area is not envisaged to undergo a transition from low density residential to medium density residential in the future.

Therefore, given the above character assessment and in particular the existing built features and the desired future character of the area, the development cannot be considered to favourably contribute or enhance the context of the area and quality and identity of the area.

Therefore, the development is not consistent with Principle 1.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

The proposed development has been conceived on the basis that the subject site is unique, being a large parcel of land located in the middle of a golf course that is within close proximity of other senior's housing development, in particular to nearby Bayview Gardens Retirement Village.

The portion of the site proposed to be developed for seniors housing is surrounded by residential development which consists predominantly of single and double storey detached dwelling houses of between 5.0m and 8.0m in height, all of which contributes towards a low scale built form environment. Additionally, the separation between dwellings reduces the scale and visual massing of development when viewed from the public domain and, in turn, promotes the landscaped character of the area.

As noted in Principle 1 above, the Bayview Gardens Retirement Village is located approximately 100m to the east of the site, fronting Cabbage Tree Road and Annam Road. The scale of this retirement village is predominantly single and two-storey articulated buildings and roof forms that are consistent with the pattern of low density residential development surrounding the site (refer to Figure 6 blow – an aerial image which provides a comparison of the built form between the proposed development and Bayview Gardens).



Figure 6 – Comparison of the built form of the proposed development against the Bayview Retirement Village (Source: Adapted from Urban Design Report, prepared by Hill Thalys on behalf of the Council)

The development proposes the construction of 7 x three and four storey building in the form and character of residential flat buildings in the middle of Golf Course, albeit the development fronts Cabbage Tree Road. The proposed building alignments, proportions, building type and the manipulation of building elements are appropriate for the purpose of providing residential accommodation on a site within a medium density area and not a site zoned for private recreation and that is surrounded by low density area consisting of generous setbacks which are characterised by substantial building separation that promotes open spaces between buildings.

Consequently, the proposed building type (residential flat buildings) is not considered to be an appropriate built form and scale for the site or locality.

Figure 7 below shows the north east elevation as viewed from the residential properties and the public reserve in Annam Road.



Figure 7 – North East Elevation of the proposed. (Source: Adapted by the author from Plan ('Site Elevations – North 03.01') – Revision A, prepared by Marchese Partners)

In this regard, the development is not regarded as a considered and sensitive response to the built form and scale of existing development.

Therefore, the development is not consistent with Principle 2.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The planning controls under PLEP 2014 and SEPP (HSPD) do not specify a maximum housing density for the site, rather the appropriate density for any development is a function of the other built form controls, including building height, landscaped open space and setbacks.

The proposed development does not comply with the building height control and based on the site area allocated to the seniors housing development, the site will be largely built upon and this is largely reflected in non-compliance with the landscaped open space control under the SEPP (HSPD).

In this regard, the proposed density and floor space ratio are not considered to be appropriate for the site or its context.

Therefore, the development is not consistent with Principle 3.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The proposed works include excavation to accommodate the new development.

The applicant has submitted a Waste Management Plan with the DA. Further, a condition of consent could be imposed requiring the submission of a Construction Management Plan (CMP) detailing disposal and recycling of demolition and excavation materials, should the DA be approved.

In addition, a BASIX certificate for the residential component of the development has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

Therefore, the development is generally consistent with Principle 4.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The landscape open space requirement for the proposed development is contained within SEPP (HSPD), which requires 30% of the site to be landscape open space, this requirement is in addition to the 15% of the site to be provided for deep soil planting.

Although the proposed development provides in excess of 15% of the site area as deep soil planting, the design of the basement levels and location of the seniors housing allows for minimal landscape open space to be provided on the ground level within the boundaries of the site. This will not allow for mature landscaping to be provided which is commensurate with the bulk and scale of the proposed built form.

Instead, the development is relying on the landscaping within the Golf Course that is outside the development site boundaries to screen the development.

Council's Landscape Officer has reviewed the landscape plans and has provided comments (see Internal Referrals in this report) which raise concerns about the inadequate amount of soft landscaping between the buildings in relation to the size of the proposed development.

The landscape design is guided by the architectural design of the buildings and associated hard surface areas within the boundaries of the site that is allocated to Seniors Housing Development and, as such, is considered to be minimal and not considered to respect the existing and desired character of the area.

Furthermore, given that the built form of the development does not favourably respond to the key built features of the area (see Principle 1), it is considered the landscape design is critically important aspect of the development to be adequate and of high quality as to positively contribute to the locality and be the correct contextual fit through respect for the neighbourhood character.

Therefore, the development is not consistent with Principle 5.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight,

natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The development has been assessed against the various amenity requirements of the Apartment Design Guideline (ADG) where it has been found that the development is capable of complying with the relevant controls.

Generally, it is agreed that the design provides a good level of amenity for future occupants, with the majority of apartments having good levels of sunlight access and cross ventilation. The orientation and layout of the apartments on each level have taken advantage of the outlooks over the Golf Course.

Notwithstanding the above, as discussed in the attached Urban Design Report the proposed development does not provide adequate internal building separation and as result, the amenity of the future development will be compromised.

Therefore, the development is not consistent with Principle 6.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The application is not accompanied by a formal Crime Risk Assessment as required by the ADG.

However, the development provides secure access which is separated from all vehicular access points. All apartments provide balconies and windows which provide passive surveillance over Golf Course and Cabbage Tree Road.

Therefore, it is considered that the proposal generally satisfies this principle.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

This principle essentially requires design to respond to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community.

The development proposes to construct seven (7) buildings which will accommodate 95 apartments, to be occupied by seniors or people with the disability, which is considered to be a positive outcome in terms of providing a diversity type of housing within a locality with an ageing population.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The development includes a schedule of external finishes which indicates that the external walls will be finished in painted render and sandstone. The external vertical screens to the facades of the building consist of bronze louvres. The roofing material is not specified in the documentation submitted with the application.

The resulting aesthetic appearance of the development, particularly when viewed from the public domains of Cabbage Tree Road, the adjoining residential properties, and surrounding Golf Course, is a contemporary series of medium-rise residential flat building, which is minimalist and hard edged in design. The design of the development may be regarded as visually neutral, the resulting aesthetic appearance will emphasise the medium density character of the development within an area identified as consisting of traditional built forms which is not suitable and appropriate for the site or the locality.

Therefore, the development is not consistent with Principle 9.

APARTMENT DESIGN GUIDE

SEPP 65 also requires consideration of the ADG prepared by NSW Department of Planning and Environment in 2015. The ADG includes development controls and best practice benchmarks for achieving the design principles of SEPP 65.

The following table sets out the proposal's compliance with the ADG:

Criteria / Guideline	Comments
Part 3 Siting the Development	
Site Analysis Does the development relate well to its context and is it sited appropriately?	Not Consistent A context plan is provided to accompany the application.

	The building form does not reflect the current and future character as anticipated by the Pittwater LEP and DCP for the site and is therefore considered to be contextually incompatible and inappropriately sited.										
Orientation Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Not Consistent The proposed senior's housing development is located within the golf course and is in a streetscape characterised by detached dwelling houses. The built form proposed is not visually compatible with the prevailing streetscape orientation.										
Public Domain Interface Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Not Consistent The development is not considered to be consistent with the desired streetscape character which consists of traditional low-scale, low density residential development. The bulk and scale of the proposed buildings are not considered to be consistent with the Desired Streetscape Character in that the scale and bulk of the residential flat buildings are not in keeping with the scale and bulk of surrounding residential development.										
Communal and Public Open Space Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site; 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter).	Not Consistent The development provides 2,281m ² (12%) of the site area to be allocated for the communal open space for the residents The communal open space is located within the centre portion of the site, and will not receive adequate solar access.										
Deep Soil Zones Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="3">7%</td></tr><tr><td>650m² – 1,500m²</td><td>3m</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td></tr></table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Not Applicable This requirement is addressed under SEPP (HSPD)
Site area	Minimum dimensions	Deep soil zone (% of site area)									
Less than 650m ²	-	7%									
650m ² – 1,500m ²	3m										
Greater than 1,500m ²	6m										

Greater than 1,500m ² with significant existing tree cover	6m														
Visual Privacy Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>			Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	Not Consistent The issue of building separation is detailed in the attached Urban Design Report, and found to be unsatisfactory.
Building height	Habitable rooms and balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													
Pedestrian Access and entries Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations.			Consistent The development provides level pedestrian access to all floor levels from the basement car parking area.												
Vehicle Access Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?			Consistent The proposed vehicular access has been assessed by Council's Traffic Engineer who has raised no objections to the proposal in terms of the location of the vehicular access.												
Bicycle and Car Parking For development in the following locations: <ul style="list-style-type: none">On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or			Consistent An assessment of car parking provision, having regard to SEPP (HSPD) has been undertaken. In summary, the amount of car parking is sufficient for the development, as addressed elsewhere in this report.												

<ul style="list-style-type: none"> On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre. <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off the street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	
Part 4 Designing the Building	
Amenity	
<p>Solar and Daylight Access</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of the apartments in a building are to receive a minimum of 2 hours of direct sunlight between 9 am and 3 pm at mid-winter; A maximum of 15% of the apartments in a building receives no direct sunlight between 9 am and 3 pm at mid-winter. 	<p>Consistent</p> <p>67 units (70.5%) will receive a minimum of 2 hours of direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>4 units (4.22%) will receive less than 2 hours of sunlight.</p>

<p>Natural Ventilation</p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed; The overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	<p>Consistent</p> <p>Over 90% of the units are naturally cross ventilated.</p> <p>No apartments exceed the 18m requirement.</p>												
<p>Ceiling Heights</p> <p>Measured from finished floor level to the finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="277 1010 808 1642"> <thead> <tr> <th colspan="2">Minimum ceiling height</th></tr> </thead> <tbody> <tr> <td>Habitable rooms</td><td>2.7m</td></tr> <tr> <td>Non-habitable</td><td>2.4m</td></tr> <tr> <td>For two storey apartments</td><td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td></tr> <tr> <td>Attic spaces</td><td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td></tr> <tr> <td>If located in mixed used areas</td><td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td></tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For two storey apartments	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.	Attic spaces	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.	If located in mixed used areas	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.	<p>Consistent</p> <p>The floor to ceiling heights of the apartments within the development meets the minimum 2.7m as required by the ADG.</p>
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable	2.4m												
For two storey apartments	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.												
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If located in mixed used areas	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.												
<p>Apartment Size and Layout</p> <p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="277 1808 808 1877"> <thead> <tr> <th>Apartment type</th><th>Minimum internal area</th></tr> </thead> <tbody> <tr> <td>Studio</td><td>35m²</td></tr> </tbody> </table>	Apartment type	Minimum internal area	Studio	35m ²	<p>Consistent</p> <p>All apartments within the development comply with the minimum area.</p>								
Apartment type	Minimum internal area												
Studio	35m ²												

<table><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>		1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²										
1 bedroom	50m ²																
2 bedroom	70m ²																
3 bedroom	90m ²																
<p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments;• 4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>																	
<p>Private Open Space and Balconies</p> <p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>		Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>Consistent</p> <p>All apartments within the development comply with the minimum balcony area and depth.</p>
Dwelling Type	Minimum Area	Minimum Depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															

<p>Common Circulation and Spaces The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>Consistent The maximum number of apartments off a circulation core on a single level is less than eight.</p>										
<p>Storage In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="277 506 813 768"> <thead> <tr> <th>Dwelling Type</th><th>Storage size volume</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td></tr> <tr> <td>1 bedroom apartments</td><td>6m²</td></tr> <tr> <td>2 bedroom apartments</td><td>8m²</td></tr> <tr> <td>3+ bedroom apartments</td><td>10m²</td></tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	<p>Consistent (subject to condition) The proposed development includes resident storage areas for all units within the building and as well as within the basement levels.</p> <p>A condition of consent could be recommended, if the application were to be recommended for approval, to ensure the proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective units.</p>
Dwelling Type	Storage size volume										
Studio apartments	4m ²										
1 bedroom apartments	6m ²										
2 bedroom apartments	8m ²										
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<p>Acoustic Privacy Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p>Consistent The development has been designed in a manner to minimise impacts of external noise and to mitigate noise transmission, as discussed elsewhere in this report.</p>										
<p>Noise and Pollution Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</p>	<p>Consistent</p> <p><u>Noise</u> The development has been designed in a manner to minimise impacts of external noise and to mitigate noise transmission, as discussed elsewhere in this report.</p> <p><u>Pollution</u> The completed development is unlikely to impact adversely on air quality or alter the microclimate of the area.</p> <p>No details regarding dust control relating to the construction has been provided. These details will be required to be submitted as a condition of consent, should the application be worthy of approval.</p>										
<p>Configuration</p>											
<p>Apartment Mix Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.</p>	<p>Consistent The development proposes two and three bedroom apartments, which are to be used for Seniors Housing.</p>										
<p>Facades Ensure that building facades provide visual interest along the street and neighbouring buildings while</p>	<p>Not Consistent The development is not respectful of the surrounding residential character, therefore the</p>										

respecting the character of the local area.	facade treatment is not considered to be appropriate to enhance the streetscape and character of the area.																																			
Roof Design Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Test whether the roof space can be maximised for residential accommodation and open space.	Consistent The roof space is not readily accessible and cannot be used to serve the residential accommodation.																																			
Landscape Design Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Not Consistent Refer to Principle 5 above and Landscape referral comments.																																			
Planting on Structure When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m³</td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m³</td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m³</td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		Not Consistent Refer to Principle 5 above and Landscape referral comments.
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																																
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Turf			200mm																																	
Mixed Use Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.	Consistent The development proposes two and three bedroom apartments, which are to be used for seniors housing.																																			
Awning and Signage Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.	Not Applicable The DA does not propose any awning or signage and as such, this clause is not applicable in the assessment of this application.																																			

Signage must respond to the existing streetscape character and context.	
Performance	
Energy Efficiency Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent A BASIX certificate report has been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met.
Water Management and Conservation Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent Water management and conservation through the means of retention of stormwater for reuse have been assessed as compliant and further, compliance with the supplied BASIX Certificate can be conditioned, if the application was recommended for approval.
Waste Management Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.	Consistent Subject to condition/s.
Building Maintenance Incorporates a design and material selection that ensures the longevity and sustainability of the building.	Consistent The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.

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

The seniors housing component of the DA has been lodged pursuant to SEPP (HSPD). The seniors housing component is restricted to the area of 18,970m² (1.897ha), being the area as identified in the SCC map.

The following section of this report provides an assessment of the proposal against the relevant criteria and standards specified in this Policy.

Clause 4 (The Applicability of the SEPP)

Clause 4(6) of SEPP (HSPD) provides that SEPP (HSPD) does not apply to Environmentally Sensitive Land, as described in Schedule 1. Environmentally sensitive land includes land identified in another environmental planning instrument by a description or expression "like" those listed in Schedule 1, which includes the phrase "Natural Hazard".

Parts of the subject site is mapped Geotechnical Hazard under PLEP 2014, and is therefore identified to be an "Environmentally Sensitive Land" within the meaning of the SEPP (HSPD).



The building footprint of the proposed development is not locating on the portion of the site that is mapped Geotechnical Hazard. Furthermore, the applicant has provided a revised Bushfire Report and have obtained revised GTA from the NSW RFS which confirms that no Asset Protection Zone (APZ) is proposed within the portion of the site that is mapped Geotechnical Hazard.

Notwithstanding the above, it noted that the Geotechnical report submitted with the application recommends shoring and associated retaining walls to be provided to support the development. The report also recommends that drainage system be installed behind all retaining walls to dissipate pore pressures from water that may collect behind the retaining walls.

Without the details of the retaining walls and the associated drainage works, and given the close proximity of the proposed development (which includes significant excavation within close proximity of the boundaries), Council cannot be confident that works associated with the development including the construction activities will not occur within the area that is mapped Geotechnical Hazard.

Accordingly, it is considered that SEPP (HSPD) is not applicable to this development and this issue has been included as reason for refusal.

Despite the above issue, a full assessment of the application against the requirement of SEPP (HSPD) has been undertaken and provided below.

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 self-contained dwellings) that will:

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

Comment:

The proposed development is consistent with the first two aims of the policy, in that the proposed development will increase the supply and the diversity of residences that meet the needs of seniors or people with a disability.

The proposed development also makes efficient use of existing infrastructure and services, in that the site is serviced by existing public transport and is located within 400m of the nearest bus stop. The site is located approximately 2 kilometres to the nearest shopping centre at Mona Vale.

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

Accordingly, the proposed development has been found to be inconsistent with the aims of this policy and this issue has been included as a reason for refusal.

Chapter 2 – Key Concepts

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

Chapter 3 – Development for seniors housing

Chapter 3 of the SEPP (HSPD) contains a number of development standards applicable to DA that are 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. If the application is to be approved, then a condition to address Clause 18 of SEPP (HSPD) is required to be included in the consent.

Clause 23 requires the consent authority to be satisfied that appropriate measures are proposed to separate the club from the residential areas of the proposed development in order to avoid land use conflicts. The Club building associated with the Golf course is located a significant distance from the proposed seniors housing, therefore the development is satisfactory with regards the requirement of Clause 23.

Part 1a - Site Compatibility Certificates

Clause 24 Site Compatibility Certificates required for certain development

applications

Clause 24 (1) specifies that an SCC is required for a DA made pursuant to this Chapter, in respect of development for the purposes of seniors housing (other than dual occupancy) if the land is used for the purposes of an existing registered club.

As the subject site is currently occupied by an existing Bayview Golf Club (being a registered Club). An SCC for the site was applied for and issued by the DPI on 27 March 2017, which has been submitted with the application.

The SCC as issued imposed the following conditions on the determination, as outlined in Schedule 2 of the SCC:

1. *Seniors Housing is to be limited to the development footprint area within the site, as nominated under map Figure 4: New Study Boundary prepared by Cardno and date February 2017.*

The Map referred to in the above condition is included in Figure 4 above in this report.

2. *The final layout, number of infill self-care living units and on site facilities in the proposed seniors housing development will be subject to the resolution of issues relating to:*

- *Form, height, bulk scale, setback and landscaping;*
- *Flood risk management and evacuation design responses;*
- *Car parking and access requirements for all existing and proposed land uses the site; and*
- *Potential ecological impact.*

As detailed in the attached Urban Design report, a comparison of the SCC plans that were submitted to the DPI and the plans submitted with the DA has revealed that the size of the development has increased and is therefore a larger scale development than what was envisaged by the SCC. This larger development has an unacceptable visual impact and hence renders the outcome incompatible with the predominantly low density residential area bordering a significant portion of the site.

In addition to the above, despite the issuing of the SCC, the consent authority is permitted to refuse an application under the provisions of this Clause, if the assessment of the consent authority finds that the development is incompatible with the surrounding environment. As detailed in this report and within the attached Urban Design report, this assessment finds the proposed development is not compatible with the surrounding environment and is therefore recommended for refusal.

In addition to the above, as noted under Clause 31 below, the SCC has been incorrectly issued with regards to the description of the proposed development and the SEPP (HSPD) is not applicable to the site

Part 2 - Site Related Requirements

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			

Development Criteria			
Clause	Requirement	Proposal	Complies
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	The subject site has 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.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	The site is not located within 400 metres of essential facilities and services. However, the site is located within 400 metres of a public transport service. Bus services are located approximately 260 metres away on Annam Road which travels to Mona Vale, Narrabeen, Collaroy, Dee Why, Warringah Mall and Manly.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The Application was referred to the NSW RFS for comments. The NSW RFS has raised no objection to the proposed development subject to conditions.	Yes
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Reticulated water and sewerage infrastructure is presently available to the site. The seniors housing is able to be connected to a reticulated water system, in accordance with the provisions of Clause 28.	N/A
29	Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply.	Clause 29 does is not applicable as Clause 24 applies to the development.	N/A
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis plan and Statement of Environmental Effects submitted with the application satisfactorily address the requirements of this clause.	Yes

Clause 31 Design of in-fill self-care housing

Pursuant to Clause 31 in determining a 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.

Clause 13 of the SEPP states that 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.

The subject site, being zoned RE2 Private Recreation, is not land zoned primarily for urban purposes. A recent LEC case (Wirrabara Village Pty Ltd v The Hills Shire Council) confirms that RE1 Public Recreation land is not by itself an urban zone. The reasoning provided by the Commissioner within the case would also apply to the subject site as the objectives land use table of the RE1 zone is similar to RE2 zone. Therefore, the Urban Design Guidelines for In-fill Development will not apply to the proposed development, and this has been confirmed by the applicant.

However, it is noted that the SCC issued for the site describes the development as In-fill Self -Care (not self-contained dwelling). Therefore, it is considered that the SCC is incorrectly issued.

Clause 32 Design of residential development

In accordance with Clause 32 of SEPP (HSPD), a consent authority must not consent to a DA 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.	<p>Clause 33 requires that an assessment of the desirable elements of the current character of the area be undertaken. In doing so, the desired elements of the locations current character can be found under Mona Vale Locality Statement in Pittwater 21 DCP.</p> <p>As discussed throughout this report, the predominant character of the local area adjoining the seniors housing is one of low density built form and scale. The location of the site envisages that any development should be of a similar scale and appearance to that envisaged for the adjoining zoning (being R2 Low Density Residential). The proposed development is not of a scale that is consistent with the location's current character or zoning.</p> <p>The proposed development will significantly alter the surrounding context which is open space, and adjoining built form comprising a low-scale, low density suburban</p>	No

Control	Requirement	Proposed	Compliance
		<p>residential character dominated by canopy trees and landscape.</p> <p>The proposed development is therefore found to be inconsistent with the requirement of Clause 33. The reasons for this are further detailed in the context of this report, including these contained in Urban Design Report prepared by Hill Thalys, assessment against the objectives of the RE2 Zone and the assessment under SEPP 65, which relates to the context, built form and scale of the proposed development, and the assessment against the planning principle established by the LEC.</p>	
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that are identified in a local environmental plan.	The proposal has been reviewed by Council's Heritage Officer who raises no objections and concludes that the heritage items will not be affected by this proposal.	Yes
	<p>c. Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p>	<p>The setbacks proposed from Cabbage Tree Road and building separations to nearest properties in Annam Road, will ensure that privacy and solar access impacts are acceptable.</p> <p>However, the bulk of the building typology and proposed variation to height is not adequately mitigated by the setbacks. This is also exacerbated due to the proximity of proposed buildings to the proposed lot boundaries that prevent adequate canopy trees and tall vegetation from softening and screening the proposed development</p> <p>The development has not been designed to respond to the topography of the land. Earthworks are also proposed outside the development site (within the golf course) to excavate existing ground levels which will require a series of high retaining walls to accommodate the development. In this regards,</p>	No

Control	Requirement	Proposed	Compliance
	(iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.	<p>the scale of the development as a whole far exceeds that of a low density development and the likely built form and character will be that of a residential flat building.</p> <p>As discussed in the various section of this report, the built form of the proposed development will be visually inconsistent with the dominant low density character of the built and natural environment.</p> <p>The development is therefore not consistent with the requirements of the Clause.</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>The setback of the development to Cabbage Tree Road is satisfactory.</p> <p>However, the proposed Blocks E and F in particular, are located along the higher ridge areas of the site. This is where the highest built form is proposed and will be visible beyond the site and from Cabbage Tree Road.</p> <p>Screening of the buildings along the Cabbage Tree Road boundary relies on the existing landscape within the geotechnical hazard area, which is outside the subject site boundaries. It is noted that a number of these trees within the site are proposed for removal and the existing character will be further compromised.</p> <p>To the west the topography falls to the existing watercourse with the proposed development removing all the trees within the site area. The falling topography and loss of existing significant tree canopy will result in the development being more visible.</p> <p>The development is therefore not consistent with the requirements of the Clause.</p>	No
	e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	<p>The significant number of trees proposed for removal will significantly alter the existing landscape character. In combination with the reliance on the landscape being outside the site boundaries, this also has potential implications to the</p>	No

Control	Requirement	Proposed	Compliance
		neighbouring character over the long term.	
	f. retain , wherever reasonable, major existing trees, and	Refer to the discussion above (e)	No
	g. be designed so that no building is constructed in a riparian zone.	The proposed development is not located 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, parking areas and paths.	The proposed development is considered satisfactory in addressing the acoustic requirement subject to conditions.	YES
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.	The application is supported by shadows diagrams which demonstrate that the development is capable of complying with the requirements of this control. Refer to comments under SEPP 65 compliance for solar access.	Yes
CL 36 Stormwater	Control and minimise the	Significant upgrade works for flood and drainage mitigation are	No

Control	Requirement	Proposed	Compliance
	disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	<p>proposed as a part of this development for the golf course upgrade works.</p> <p>Council's Development Engineers have reviewed the proposal and have not supported the stormwater design in its current form due to insufficient information being submitted with the application.</p>	
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	<p>The arrangement and configuration of buildings is satisfactory in achieving adequate casual surveillance through the appropriate placement of balconies and windows and pedestrian access within the development and to adjoining streets.</p> <p>The proposal is satisfactory with regard to this design quality principle.</p>	YES
CL 38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and	<p>The proposed development requires a series of ramped paths due to the topography.</p> <p>The development proposes upgrades to existing paths and the construction of additional pathways to facilitate pedestrian access to the bus stop in Annan Road.</p> <p>The application is supported by an Access Report prepared by BCA</p>	YES

Control	Requirement	Proposed	Compliance
	motorists with convenient access and parking for residents and visitors.	Logic and dated 21 November 2017. The report concludes that based on the endorsement of the recommendations within the development is capable of complying with this clause.	
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Consistent subject to condition/s.	Yes

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1,000m ²	18, 970m ² (1.897ha)	Yes
Site frontage	20 metres	>20m	Yes

The requirement of Clause 40 (4) which relates to Building Height is not applicable to the subject site, as the subject is not zoned for residential development.

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. It is noted that these standards do not impose any limitations on the grounds on which a consent authority may grant development consent.

The following table outlines compliance with the standards specified in Clause 50 of SEPP (HSPD):

Control	Required	Proposed	Compliance
Building Height	8m or less (measured vertically from ceiling of topmost floor to ground level immediately below).	Buildings heights are above 8 metres (Refer to Clause 4.6 of PLEP 2014)	No
Density and scale	0.5:1 or less The site is 18,970m ² so the required FSR will be a <u>maximum</u> of 9,485m ² .	1.02:1 (18,507m ²) This represents a variation of 95.1% (9,022m ²) The proposed density and floor space ratio are not considered to be appropriate for the site or its context.	No
Landscaped area	30% of the site area is to be landscaped.	24.6% Landscaped area under the SEPP is defined as: <i>landscaped area means that part of the site area that is not occupied by any building and includes so much of that part as is used or to be used for rainwater tanks, swimming pools or open-air recreation facilities, but does not include so much of that part as is used or to be used for driveways or parking areas.</i> The applicant has indicated in the SEE that compliance with this clause is achieved. However, the applicant has based the calculation of different site area. The calculation of LOS within the boundaries of the site means the entire site is covered with buildings, including the basement car parking structures. The non-compliance with the control is not supported and is included in the reasons for refusal.	No
Deep soil zone	15% of the site area and 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 3m.	3,627.5m ² of deep soil zone will be provided, being 19.3% of the development footprint area. However, the development does not provide deep soil planting within the rear of the site that has a minimum dimension of 3m.	No
Solar Access	70% of the dwellings of the development to receive a minimum of 3 hours of direct	70.5% of apartments receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	Yes

	sunlight between 9am and 3pm in mid-winter		
Private open space	15m ² of private open space per dwelling not less than 3m long and 3m wide.	This standard is applicable to in-fill self-care housing.	N/A
Parking	0.5 car spaces for each bedroom. The proposed development provides a total of 231 bedrooms, therefore 116 car spaces are required.	186 spaces provided.	Yes

SEPP 55 - Remediation of Land (SEPP 55)

SEPP No. 55 – Remediation of Contaminated Lands establishes State-wide provisions to promote the remediation of contaminated land.

The SEPP states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals.

Clause 7 of the SEPP requires that a consent authority must not grant consent to a development if it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or will be after undergoing remediation) for the proposed use.

In response to these requirements, the applicant has submitted a 'Detailed Site Investigation Reports' for the proposed seniors housing development and for the Golf Course upgrade. Both reports prepared, by Martens Consulting Engineers and dated November 2017.

The report which relates to seniors housing development concludes that *"the area for the proposed seniors living development within the northern section of Lot 1 DP 662920, Bayview Golf Course is suitable for the proposed development"*.

The report that related to the Golf Course upgrade concludes that:

Laboratory results had samples from three locations which exceeded adopted SAC due to asbestos being detected at levels above the reporting limit (0.1g/kg). At one of the three locations SAC was also exceeded for benzo (a) pyrene and carcinogenic PAHs. The three locations which had exceedances were situated in the south west of the investigation area.

To address SAC exceedances, assess remediation options and determine remediation requirements, we recommend a remediation action plan (RAP) is

prepared. The RAP should document required controls and procedures for the proposed earthworks, for the area where SAC was exceeded, and for the whole investigation area.

Prior to any soil material being removed from the site, a formal waste classification assessment is required in accordance with NSW EPA Waste Classification Guidelines (2014).

Any earthworks in areas where asbestos fibres were identified in soil (BH403, BH404 and BH410) are to be undertaken by an ASA licensed contractor.

The application was also referred to Council's Environmental Health Officer who raised no objection to the proposal subject to conditions. Accordingly, based on the information submitted, the requirements of SEPP have been satisfied and the land can be made suitable for the purpose for which the development is proposed to be carried out and the recommendations included in the investigation can be included conditions, if the application was recommended for approval.

SEPP (Infrastructure) 2007

Clause 45

Clause 45 of the SEPP requires the Consent Authority to consider any DA (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 5m 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 5m 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.

Clause 106

Pursuant to Clause 106(1) (a) the clause applies to new premises of the relevant size or capacity. (2) In this clause, "relevant size or capacity" means: *"in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3"*.

Schedule 3 of SEPP Infrastructure requires that the following residential flat developments are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to a classified road or to a road that connects to the classified road if access is within 90m of connection, measured along the alignment of the connecting road)
Apartment or residential flat building	300 or more dwellings	75 or more dwellings

Comment:

The development consists of 95 residential apartments, however the site does not have an access to a classified road or a road that connects to the classified road, therefore the requirement of Clause 106 is not applicable to the subject application.

SEPP (Building Sustainability Index: BASIX) 2004

The application has been accompanied by a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out. The requirements outlined in the BASIX certificate have been satisfied in the design of the proposed development. Nonetheless, a condition could be imposed, should the application be worthy of approval to ensure such commitments are fulfilled during the construction of the development.

SEPP 44 – Koala Habitat Protection

The provisions of this policy apply as the site is greater than one hectare in size. The site does not represent potential or core koala habitat. Accordingly, no further consideration of the policy is required.

STATE REGIONAL ENVIRONMENTAL PLANS

There are no SREPs applicable to the site.

LOCAL ENVIRONMENTAL PLANS

PITTWATER LOCAL ENVIRONMENT PLAN 2014 (PLEP 2014)

Is the development permissible with consent?	Land Use Definition:	Permitted or Prohibited
	Senior's Housing and associated uses	Permissible via SEPP (HSPD)
	Golf Course Upgrade works & Infrastructure	Permissible with consent
	New Golf Course Maintenance Facility	Permissible with consent (used in conjunction with the Golf Course)
	Flood Mitigation Works	Prohibited (refer to the discussion below)
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

Relevant Development Standard	Requirement	Proposed	Variation (%)	Compliance
Height of Buildings	8.5m (maximum)	Golf Course Maintenance Facility – 5.2m	Nil	Yes
		Block A – 9.8m	15.3%	No
		Block B – 9.5m	11.7%	No
		Block C – 9.78	15.05%	No
		Block D – 11.20m	31.8%	No
		Block E – 14m	64.7%	No
		Block F -13.99m	64.5%	No
		Facilities Building - 7.97m	Nil	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.6 Exceptions to development standards	No
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.4 Floodplain risk management	Yes
7.6 Biodiversity protection	No Refer to comments in the internal referral section made by Natural Environment (Biodiversity Section)
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Detailed Assessment

Permissibility (Flood Mitigation Works)

Part of the works sought as a part of the DA includes Flood Mitigation Works (**FMW**). FMW is defined under the PLEP 2014 as:

Flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behavior to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behavior, local overland flooding, or tidal action so as to mitigate flood impacts.

Any use that is not listed above is prohibited within the zone unless they are specifically permissible under a prevailing SEPP.

Under the SEPP (Infrastructure) 2007, FMW has the same definition as per the standard instrument. However, under the same SEPP, FMW is only permitted if it is carried out by or on behalf of a public authority.

It was identified that the FMW is prohibited development. In response to this issue, the applicant has provided legal advice that is summarised as:

- *1. The FMW are for the purposes of a 'recreation facility (outdoor) and serviced self-care housing and permissible with consent under the PLEP when read in conjunction with the Seniors Housing SEPP.*
- *2. Independently from the above, the FMW are also permissible with consent under the infrastructures SEPP*

In response to the legal advice submitted by the applicant:

Firstly, the FMW associated with the upgrade of the golf course and therefore could be considered as ancillary development. However, it is not accepted that the FMW is ancillary to the seniors housing development as the portion of the land that is to be developed for seniors housing is not flood affected.

Secondly, the legal advice emphasises that the FMW is permissible under SEPP (Infrastructure) 2007 as the definition closely aligns with the definition of Stormwater Management, and would therefore be permissible under Clause 111A of the SEPP.

However, FMW are a separately defined development under SEPP (Infrastructure) 2007, and therefore cannot be defined as anything else.

Accordingly, it is concluded that the FMW associated with this application is a prohibited use and this issue has been included as a reason for refusal.

Detailed Assessment of the Non-Compliance with the Height of Buildings Development Standard (Clause 4.3 and Clause 4.6 of PLEP 2014)

Clause 4.3 requires that buildings are to not exceed a maximum height of 8.5m above the existing ground level.

Clause 5(3) of the SEPP (HSPD) mandates that the SEPP prevails to the extent of an inconsistency with another environmental planning instrument (in this case the PLEP 2014). The 8.5m development standard under PLEP 2014 is not inconsistent with:

- Clause 40 (4) of SEPP (HSPD), as the subject site is not zoned for residential purposes, so the requirement of this clause is not applicable to the subject site; and
- There is no conflict between Clause 50 of SEPP (HSPD) and Clause 4.3 of PLEP 2014.

Accordingly, this assessment has used the requirement of Clause 4.3 – Height of Buildings pursuant to PLEP 2014 to provide an assessment of the variation relating to Building Height standards for this development.

The extent of non-compliance with the building height is identified in the following table:

Relevant Development Standard	Requirement	Proposed	Variation (%)	Compliance
Height of Buildings	8.5m (maximum)	Block A – 9.8m	15.3%	No
		Block B – 9.5m	11.7%	No
		Block C – 9.78	15.05%	No
		Block D – 11.20m	31.8%	No
		Block E – 14m	64.7%	No
		Block F – 13.99m	64.5%	No

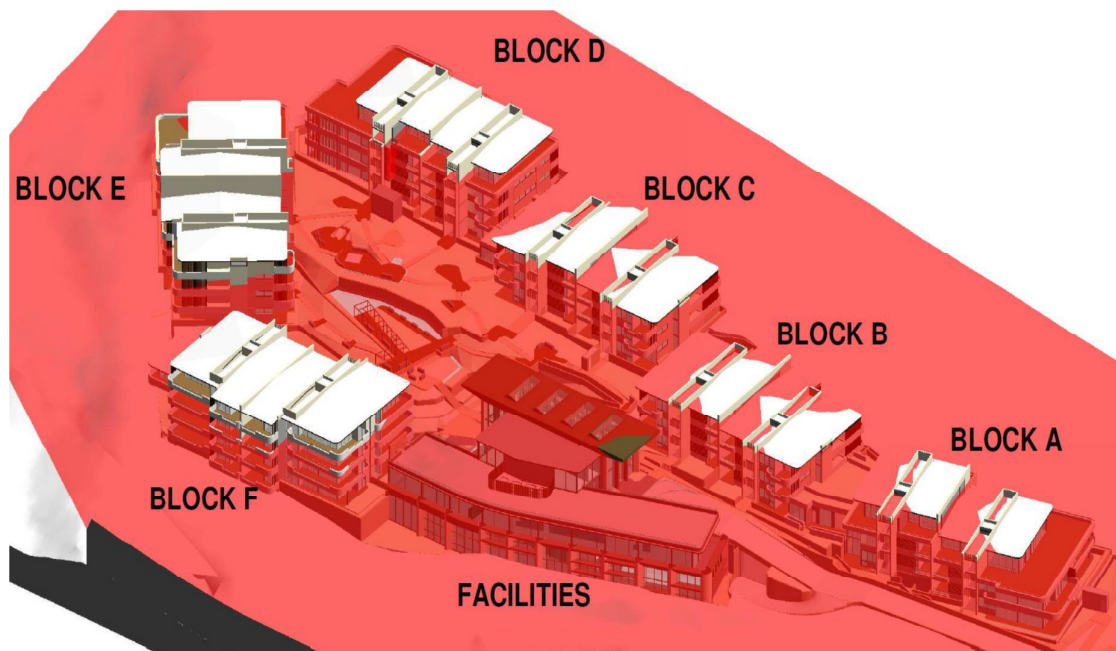


Figure 9 – The proposed 8.5m building height plane (source: Adapted by the author from Plans, prepared by Marchese Partners)

The following assessment of the variation to Clause 4.3 – Height of Buildings Development Standard is assessed taking into consideration the questions established in '*Winter Property Group Limited v North Sydney Council (2001) NSW LEC 46*'.

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the PLEP 2014. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of Buildings control pursuant to Clause 4.3 of the PLEP 2014 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – 'Height of buildings' of the PLEP 2014 are:

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

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

Comment

The site is located within the Mona Vale Locality under P21 DCP. As discussed previously, it is noted that residential flat buildings (as proposed in this application) are inconsistent with the Desired Character Statement of the locality (see 'Desired Character' in this report). In this regard, the proposed height and number of storeys is considered excessive and will set an undesirable precedent for the locality that envisages low density residential.

Accordingly, the height of the proposed development is not compatible and would be excessive in terms of its scale as compared to other housing developments in the surrounding locality

Accordingly, it is considered that the proposal does not satisfy this Objective.

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

Comment

The proposed development is designed in the form of 7 separate buildings. The height and scale of the development are not considered to be in keeping with the size and scale of existing development in the area. The visual pattern of the development is inconsistent with the visual pattern of the area, especially when viewed from the public domains of Cabbage Tree Road, Annam Road Reserve, and from a number of private properties, whereby the horizontal and vertical scale of the proposal is more attributed to a residential flat building development, and thus conflicts with the scale of single dwelling development.

Accordingly, it is considered that the proposal does not satisfy this objective.

- c) to minimise any overshadowing of neighbouring properties.**

Comment

The non-compliance with the height standard will not result in inconsistencies with this objective as adjoining and nearby development will not experience adverse impacts with regards to solar access.

Accordingly, it is considered that the proposal does satisfy this Objective.

- d) to allow for the reasonable sharing of views.**

Comment:

The adjoining and nearby development which overlooks the subject site will not experience adverse impacts with regards to views loss. The adjoining properties will continue to obtain views over parts of Golf Course. However, it is noted that the impacts associated with this proposal have not been "minimised" and a compliant building would achieve greater consistency with this objective. The proposed built form will increase the visual massing on the site, which will have a detrimental view impact of an open Golf Course from both public and private property.

Accordingly, it is considered that the proposal does not satisfy this Objective.

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

Comment

The development has not been appropriately stepped to respond to the slope of the land, as detailed within this report, the building form and scale has not been designed to respond sensitively to the natural topography.

In this regard, the horizontal built form (massing) of the development consists of a continual 3 and 4 storey development which reduces the building separation and encloses the Golf Course. This aspect of the design is an architectural departure from the single dwelling character of the area through the introduction of bulk and height that is characteristic of medium density residential flat buildings.

In this regard, the development is not regarded as a considered and sensitive response to the natural topography of the site.

Accordingly, it is considered that the proposal does not satisfy this Objective.

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

Comment

The environmental impacts of the proposed development on the natural environment are addressed under the various section of this report (including the referral section). A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the natural environment is not acceptable.

The development is found to be satisfactory with regards to its impact on Heritage item.

Accordingly, it is considered that the proposal does not satisfy this Objective.

In conclusion, a variation to the Building Height Development Standard under Clause 4.6 of PLEP 2014 cannot be supported for reasons that the proposed height of the development is inconsistent with the Objectives of the Standard.

What are the underlying objectives of the zone?

In assessing the development's non-compliance, consideration must be given to its consistency with the underlying objectives of the zone. The site is zone RE2 Private Recreation, and the objectives of the RE2 zoning aims are:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To allow development of a scale and character that is appropriate to the nature of its recreational use and is integrated with the landform and landscape.*

Comment

The proposed seniors housing and its associated uses are found to be inconsistent with the objectives of the RE2 zone for the following reasons:

- Under the permitted uses within the zone all form of residential development, including seniors housing, are prohibited development. The strategic direction for the site was to enable the land to be used for private open space or recreational purposes. The residential use is inconsistent with that intent and will set an undesirable precedent.
- The residential use of the site is not compatible land use and as detailed elsewhere in the report, the development does not enhance the natural environment for recreational purposes.
- The development involves the construction of seven (7) x 3 and 4 storey residential flat buildings which will introduce a high density/mid-rise development into an area currently characterised by low-density/low-rise residential development.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the PLEP 2014?

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development.***

Comment:

The non-compliance building height proposed in this application has no sound basis, therefore the degree of flexibility in applying the variation to the Development Standard is considered to be inappropriate.

- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.***

Comment

The applicant has not presented information to demonstrate that the variation to the Development Standard will achieve a better outcome compared to a compliant development. Additionally, the assessment notes that there are no site difficulties that warrant a variation to the building height and trigger such flexibility in the application of the standard. Therefore, the approval of the proposed variation would create an undesirable precedent for other development to seek similar variations and would undermine the aims, objectives and requirements of the Development Standard and the strategic intent of the zone.

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

Comment:

The site is not excluded from the operation of this Clause.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Comment:

The applicant has provided a written request that addresses the non-compliance in relation to varying the building height development standard under the provisions of the PLEP 2014 (refer to attachment 4).

The written request relies upon the fact that the SCC has been issued for the site, and the applicant's Clause 4.6 provides the following justification (summarised):

- *The circumstances surrounding the variation to the development standard are driven by the SCC process under the Seniors SEPP, which functions outside the LEP with regards to providing permissibility for a proposal which in the opinion of the Secretary of the DPE satisfies the requirements of Clauses 24 and 25 of the Seniors SEPP. Accordingly, the need for the variation to the height limit has arisen because the local LEP height control is associated with the RE2 Private Recreation zoning of the site, which does not contemplate the SCC process.*
- *It is also noted that one of the primary tests of the SCC assessment process (Clause 24(2) (b)) is that of the compatibility of the proposal with the surrounding environment. A Planning Principle for „compatibility“ has been established by the NSW Land and Environment Court in Project Venture Developments v Pittwater Council [2005] NSWLEC 191, and it has been demonstrated in Section 4.6 of the SEE how the proposal is consistent with this principle.*

It is acknowledged that the SCC has been issued for the site, however the SCC has imposed a number requirements on the determination, one which states that the form, height, bulk, scale, setbacks and landscaping will be the subject of resolution. An assessment of compatibility has been provided against the LEC Planning Principle, later in this report. The assessment concludes that the proposed development is not compatible

Therefore, the applicant's justification is not concurred with.

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

(a) *the consent authority is satisfied that:*

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

Comment:

The written request does not contain sufficient environmental planning grounds to justify contravening the development standard to such a significant extent. In this regard, the issuing of the SCC is not considered sufficient planning grounds to justify contravening the development standard.

Therefore, compliance with the Development Standard is considered to be reasonable and necessary under the circumstances.

Accordingly, for reasons detailed above, the proposal is considered to be inconsistent with the objectives of the RE2 zone in the PLEP 2014.

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

Comment:

The non-compliance with the building height standard is not considered to be in the public interest as the proposed development is found to be inconsistent with the objectives of the Height of Buildings Development Standard.

The public interest, in this case, is to maintain the standard contained in environment planning instruments which have been duly prepared with public consultation and a measure of the public interest. Therefore, it is concluded that the proposal is contrary to the public interest.

(b) the concurrence of the Director-General has been obtained

Comment:

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

DEVELOPMENT CONTROL PLANS

PITTWATER DEVELOPMENT CONTROL PLAN 21

The Pittwater Development Control Plan 21 is applicable to the development.

Built Form Control

Built Form Control	Requirement	Proposed	Complies
Front Building Line	Merit Assessment	Approximately 11m from Cabbage Tree Road	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Section A – Shaping Development in Pittwater		
A1.7 Consideration before Consent is granted	Yes	Yes
A3.4 Key objectives of the P21 DCP	No	No
A4.9 Mona Vale Locality	No	No
Section B – General Controls		
B1.1 Heritage Conservation -	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014		
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
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	No	No
B4.6 Wildlife Corridors	No	No (refer to comments by NECC (Biodiversity) Section in the referral section of this report)
B5.1 Water Management Plan	No	No (refer to comments by NECC (Riparian) Section in the referral section of this report)
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	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Sediment Management		
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
Section C- Development Type Control (Seniors Housing)		
C1.1 Landscaping	Not Applicable	Not Applicable
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Not Applicable	Not Applicable
C1.10 Building Facades	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.15 Storage Facilities	Yes	Yes
C1.18 Car/Vehicle/Boat Wash Bays	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	Yes	Yes
C1.20 Undergrounding of Utility Services	Yes	Yes
C1.21 Seniors Housing	No	No
C1.23 Eaves	Yes	Yes
C5 – Design Criteria for Other Development (Golf Course Upgrade works)		
C5.1 Landscaping	No	No (refer to comments by NECC (Riparian) Section in the referral section of this report)
C5.2 Safety and Security	Yes	Yes
C5.4 View Sharing	Yes	Yes
C5.5 Accessibility	Yes	Yes
C5.7 Energy and Water Conservation	Yes	Yes
C5.8 Waste and Recycling Facilities	Yes	Yes
C5.9 Signage	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C5.10 Protection of Residential Amenity	Yes	Yes
C5.17 Pollution Control	Yes	Yes
Section D – Locality Specific Development Control		
D9.1 Character as viewed from a public place	No	No
D9.2 Scenic protection - General	No	No
D9.3 Building colours and materials	Yes	Yes
D9.6 Front building line	Yes	Yes

Detailed Assessment

Character

- **Clause A4.9 - Mona Vale Locality**
- **Clause D9.1 - Character as viewed from a public place**
- **Clause 9.2 – Scenic Protection**

The site is located within the Mona Vale Locality. The desired character statement (as applicable to the proposed development) for this locality is as follows:

The desired character of Mona Vale seeks that existing residential areas will remain primarily low-density with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape.

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

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

Comment

The proposed development has been found to be inconstant with desired character statement for the following reasons:

- The development does not represent the character of low-density buildings within a landscape setting. In this regard, the visual pattern of the development is inconsistent with the visual pattern of the area, where a horizontal and vertical scale more attributed to a residential flat development conflicts with the scale of single dwelling development.

- The development does not maintain the landforms, landscapes and natural environment of the site, as the proposal involves substantial excavation, removal of significant and well established trees and vegetation to accommodate the development
- The design of the proposed development allows for minimal landscape open space to be provided on the ground level within the boundaries of the site. Instead, the development is relying on the landscaping within the Golf Course that is outside the development site boundaries to screen the development.
- Materials used in the development are stark in appearance and are not considered to blend with the colours and textures of the natural landscape. Instead, the colours and materials emphasise the built form and establish a distinct contrast with the natural landscape.

The developments inconsistency with desired character statement has been included as a reason for refusal.

Protection of Trees

- **Clause B4.22 - Preservation of Trees and Bushland Vegetation**
- **Clause B4.6 - Flora and Fauna Enhancement Category 2 and Wildlife Corridor**

The subject site has been identified as a high priority area that is essential to fauna movements on Council's Wildlife Corridor Map.

An Arboriculture Impact Assessment, prepared by Footprint Green Pty Ltd dated 8 November 2017 has been submitted with the application. The report assesses 290 trees that located within the close proximity of the seniors housing, and concludes that 130 trees are to be retained, 1 tree (Cabbage Palm) is to be transplanted, and 159 trees are proposed to be removed.

The Asset Protection Zone (APZ) required for the proposed development relies on the golf course (i.e. outside the boundaries of the development) to the west, north west, and south west for the distance of up 100m. The portion of the golf course, particularly to the north and north-west contains sections of dense vegetation, including canopy and understorey vegetation, in this regard, the report provides insufficient information on the impact on all trees that all located within the APZ area of the development.

In addition, Council's Traffic response (see internal referral section of this report) has recommended that additional trees from Cabbage Tree Road are required to be removed to improve sight lines.

The proposed development requires the removal of numerous trees to facilitate the proposed development, including several trees outside the boundaries of the subject and within Council's road reserve area. Council's Landscape officer and Natural Environment Officer (Biodiversity) section has assessed the proposed development and has indicated that the proposal is not supported as the proposal does not provide adequate protection of the existing flora on site. Therefore, this issue has been included as a reason for refusal.

Flooding

- **Clause B3.13 - Flood Hazard – Flood Emergency Response planning**

The proposed use of the site, being a seniors housing development, is a 'special flood protection land use' (as defined by Council's Flood Policy). Council's Flood Engineer provided the following comments in regards to the proposal:

The proposed seniors living development is located outside of the Probable Maximum Flood extent. Provided the proposed development complies with the recommendations outlined in the Flood Impact Assessments the application is recommended for approval subject to conditions

In relation to the suitability of the evacuation measures in the event of a flood, the proposal provides suitable measures for occupants of the development to shelter-in-place, and as such, occupants would not be required to evacuate in a flood event.

Accordingly, the proposed development is consistent with the provisions of clause B3.13 of P21 DCP

Acoustic Privacy

Clause C1.6- Acoustic Privacy

Clause C1.6 of P21 DCP requires that noise sensitive rooms such as bedrooms as located away from noise sources, including roads and parking areas.

An acoustic assessment which considers both internal and external noise sources including surrounding traffic noise, noise emissions associated with traffic generated by activities on site, and noise from the operation of the development has been submitted. The acoustic assessment found that noise generated by the development will comply with all relevant standards.

The assessment recommends that certain acoustic treatments be implemented to ensure internal noise levels comply with relevant Australian Standards. The recommendation of the report can be included as condition, should be application be worthy of approval.

Clause C1.21 - Seniors Housing

Clause C1.21 of P21 DCP aims to ensure that seniors housing is developed in accordance with SEPP (HSPD), located out with medium density zones, are in keeping with the development of the surrounding area with regards to character, and bulk and scale. In addition, the clause requires that the development shall not result in such an accumulation of seniors housing to create a dominant social type in the surrounding neighbour, and not result in a dominant "residential flat building" appearance in the neighbourhood.

As discussed previously, the proposal is not considered to be in keeping with the surrounding area with regards to bulk, building height, scale, and character. This issue has been included as a reason for refusal.

Stormwater Management

- **Clause B5.9 - Stormwater Management - Water Quality**
- **Clause B5.10 - Stormwater Discharge into Public Drainage System**

The application was referred to Council's Development Engineer who raises concerns about the design and provision of stormwater drainage from the development and external drainage works. All matters raised require the submission of further information.

Accordingly, this issue is included as a reason for refusal.

OTHER ASSESSMENT MATTERS

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

This section requires a range of matters to be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

Section 1.3 (previously 5A) of the Act contains the relevant provisions for the assessment of biodiversity issues for all applications. The matters for consideration under section 1.3 include a range of matters that must be considered and Council is required to adopt a conservative approach in its determination of the biodiversity value. The applicant is required to provide information to satisfy the consent authority to demonstrate that there is little or no significance or that satisfactory mitigation offsets, harm minimisation or other approved or recognised conservation strategies can be adopted or implemented to achieve satisfactory outcomes, and most importantly avoid significant adverse effects on the biodiversity values of a locality.

In this case, the assessment of this application found that the application was deficient in identifying the relevant environmental impacts associated with this site. Council's Natural Environmental (Biodiversity) section has concluded that the impact assessments provided do not adequately address the provisions as it relates to this site including Section 1.3 of the EPA Act.

The applicant has lodged additional information in an attempt to remedy the environmental issues identified within site, however this issue remains unresolved, and therefore this issue is included as a reason for refusal.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

The application was referred to the NSW Police who did not raise any objection to the proposed development.

Compatibility of the Character of the Development

The matter of assessing the character compatibility of development has been examined by the Land and Environment Court in *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council (2003) NSWLEC 268 (GPC)* and *Project Venture Developments v Pittwater Council (2005) NSWLEC 191 (Project Venture)* where Senior Commissioner Roseth set out Planning Principles to better evaluate how a development should respond to the character of its environment. The following provides an assessment against the Planning Principles established in those two cases:

In the case of GPC, Senior Commissioner Roseth developed the following Planning Principles:

The first principle is that buildings in a development do not have to be single-storey to be compatible with the streetscape even where most existing buildings are single storey. The principle does not apply to conservation areas where single storey dwellings are likely to be the major reason for conservation.

Comment:

The development consists of 7 buildings that reach a maximum storey height of between 3 to 4 storeys. A site inspection and detailed analysis of the adjoining and surrounding streetscape reveals that the predominant character of the local area is one of low density built form and scale. Buildings are generally one or two storeys in height with the exception of some sporadically located apartment style buildings that are located within the nearby retirement village (Bayview Garden), which reach a height of 3 storeys. This 3 storey building in Bayview Gardens is readily viewable from Annam Road.

In this regard, it is considered that the scale of the proposed development is incompatible with the streetscape and is inconsistent with the first principle.

The site is not located within, or near to, a conservation area which limits building heights to single storey.

The second principle is that where the size of a development is much greater than the other buildings in the street, it should be visually broken up so that it does not appear as one building. Sections of a building, or separate buildings should be separated by generous breaks and landscaping.

Comment:

The development provides the following building lengths and heights:

- Building A and B are three storeys in height and have a combined length of 95m. Articulation of the lineal massing and height of Building A and B is provided through a single storey element (of approximately 6.8m in length) that is centrally located in the built form.
- Building C is three storeys in height, and the adjoining Building D is four storeys in height. Building C and D have a combined length of 96m. Articulation of the lineal massing and height of Building C and D is provided through a single storey element (of approximately 8.1m in length) that is centrally located in the built form.
- Building E and F are four storeys in height and have a combined length of 89m. Articulation of the lineal massing and height of Building E and F is provided through a single storey element (of approximately 9.8m in length) that is centrally located in the built form.
- The facility building is three storey in height and has a length of 70m.

As discussed throughout this report, the proposed development is considered to be significantly greater in scale, size and massing when compared with other developments in the surrounding vicinity. The proposed buildings do not provide sufficient physical breaks to appear 'visually broken up' or sufficient landscaping to contribute to mitigating the visual impact of the built form.

In this regard, the development is considered to be incompatible with the scale of surrounding development and inconsistent with the second principle.

The third principle is that where a site has existing characteristics that assist in reducing the visual dominance of development, these characteristics should be preserved. Topography that makes development appear smaller should not be modified. It is preferable to preserve existing vegetation around a site's edges to destroying it and planting new vegetation.

Comment:

The portion of the site which is proposed for seniors housing development is bordered by Cabbage Tree Road to the east, and low density residential development to the north-east.

As discussed above, the proposed development is designed in the of residential flat buildings. The lengths, width, and height of the proposed development is not similar to other development within the area. The proposed development will also result in a significant impact upon the site including its natural features, vegetation and topography and the removal of a significant number of trees to accommodate the development.

Therefore, the development is considered to be inconsistent with this principle.

The fourth principle is that a development should aim to reflect the materials and building forms of other buildings in the street. This is not to say that new materials and forms can never be introduced only that their introduction should be done with care and sensitivity.

Comment:

The schedule of finishes and materials proposed by the application are stark in appearance and are not considered to be compatible with the colours and textures of the natural landscape. Instead, the colours and materials emphasise the built form and establish a distinct contrast with the natural landscape.

Therefore, the development is considered to be inconsistent with this principle.

The above principles were further developed in Project Venture to include the following:

a) Capable of existing together in harmony

Comment:

In particular circumstances, some developments are able to co-exist in harmony despite there being different densities, scales and visual appearances between the buildings.

The assessment of this application has found that the development, as proposed, is significantly greater in density and scale than surrounding developments. The built form is also of a visual appearance that is at odds with the prevailing detached style housing in the surrounding vicinity.

Were this application to be proposed within a medium density area the built form and density may be considered appropriate, however the zoning of the site for the purpose of Private Recreation, and the surrounding low density residential zoning, result in the development being incongruous with the prevailing built form and character of the area, and it is therefore considered that the development is inconsistent with this principle.

b) Relationship of built form to surrounding space.

Comment:

The relationship of a building to surrounding spaces is determined by the height, setbacks and provision of open space that are afforded by development.

The proposed development is designed in the form of seven (7) separate buildings. The height and scale of the development is not considered to be in keeping with the size and scale of existing development in the area. In this regards, the horizontal built form (massing) of the development consists of a continual 3 and 4 storey development which reduces the building separation and encloses the Golf Course.

The proposed development does not provide sufficient setbacks to enable for landscaping to be provided within the boundaries of the site.

CONCLUSION

This report provides a comprehensive assessment of the Development Application for the redevelopment of the Bayview Golf Course site.

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP (HSPD) 2004, SEPP 65, SEPP 55, SEPP (Infrastructure), PLEP 2014, the relevant codes and policies of Council, the relevant provisions of the Pittwater 21 DCP.

Public Exhibition

The public exhibition of the DA resulted in a significant response from the community, including both concerned residents and an overwhelming number who supported the proposal. Those objecting to the proposal raised concerns in relation to the building height and consequent visual impacts of the development, impact on the environment, and the amount of additional traffic that would be generated by the development. Those supporting the development raised the benefits of providing senior housing on the site, and the maintenance and financial stability of the golf course.

The issues raised in the submissions have been addressed in the "Public Exhibition & Submissions Received" section" in this report.

Referrals

The application was referred to internal departments and external authorities. In the responses, the Department of Primary Industries (Water) has declined to issue GTA for the proposed development thereby prohibiting the consent authority from issuing consent under the provisions of the EPA Act.

Council's Urban Designer, Landscape officer, Natural Environment and climate change sections each raised fundamental concerns with the proposal. Council's Development Engineer has indicated that additional information is required to properly assess the stormwater quality requirements of the proposal.

Assessment of the Development Application

The assessment of this DA against the provision of SEPP (HSPD) has found that proposed development as it relates to senior housing development is not permissible due to the close proximity of the development to the area mapped as Geotechnical Hazard under PLEP 2014. Despite the permissibility issue, the proposed development is found to be inconsistent with the number of the requirement of SEPP (HSPD). In particular, the bulk,

scale, built form and character sought by the proposal exceeds that is envisaged for the site under the planning controls, particularly having regard to the visual impact and appearance of the proposed building forms and the lack of landscaping provided for a development in this location, scale and configuration.

The assessment of the application against the provisions of SEPP 65 found that the proposal is inconsistent with a number of the design principals and a number of relevant requirements as contained under the associated ADG.

The assessment of the proposed development against the provisions of PLEP 2014 found that the proposal does not comply with the 'Height of Buildings' Development Standard under the PLEP 2014 which permits a maximum building height of 8.5m within the RE2 – Private Recreation zone. In this regard, it has been found that the development is inconsistent with the objectives of the Development Standard and the zone. Furthermore, the applicant has not provided sufficient justification for the substantial departure from the Development Standard.

The assessment of this application found that the application was deficient in identifying the relevant environmental impacts associated with the subject site. Council's Natural Environmental sections concluded that there is insufficient information submitted with the application as ascertain the likely impact of the proposed development on the environment.

The assessment of the proposed development against the provisions of P21 DCP found that the proposal is not consistent with a number of clauses, as it relates (but limited to) to the character of the locality, the impact on flora and fauna, and the bulk and scale of the development.

Finally, the assessment has found that the Flood Mitigation works are prohibited Land use under the PLEP 2014.

It is considered that all processes and assessments have been satisfactorily addressed and that proposed development does not constitute the proper and orderly planning for the site or the locality.

RECOMMENDATION (REFUSAL)

That the SNPP as the consent authority pursuant to Clause 4.16 (1) (b) of the EPA Act (as amended) refuse to grant consent to Development Application No. DA2017/1274 for construction of Seniors Housing consisting of 95 units including golf course upgrades and infrastructure works at 1825 Pittwater Road and 52 Cabbage Tree Road, Bayview for the following reasons:

1. Integrated - Department of Primary Industries (Water)

Particulars:

- Pursuant to Section 4.51 of the *Environmental Planning and Assessment Act, 1979 (EPA Act)*, the Department of Primary Industries (Water) has not granted its General Terms of Approval that are required in order for the development application to be consented to.

2. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and Associated Apartment Design Guide (ADG)

The proposed development should not be approved in its current form as it fails the principles of SEPP 65 insofar as they apply to context and neighbourhood character, built form, scale, density, landscaping, amenity, and aesthetics:

Particulars:

- a) The proposed building is not compatible with the context of the site that currently contemplates buildings of a scale significantly less than that proposed.
- b) The development does not provide sufficient landscape area within the boundaries of the site (boundaries as identified within the Site Compatibility Certificate) commensurate with the bulk and scale of the proposed built form.
- c) The proposal is inconsistent with a number of the requirements as contained in the ADG referenced in SEPP 65

3. State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 (SEPP HSPD 2004).

The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is found to be inconsistent with the provisions of SEPP (HSPD) 2004.

Particulars:

- a) The works (including construction works) associated with the proposed development will occur within the Environmentally Sensitive portion of the site (being defined as natural hazard within Schedule 1), therefore the SEPP is not applicable to the proposed development.
- b) The proposed development is inconsistent with Aims of Policy (namely Clause 2c) and the requirement of Clause 24 in relation to design and compatibility.
- c) The proposed development is inconsistent with the requirements of Clause 33 Neighbourhood Amenity and Streetscape.
- d) The proposed development does not comply with the requirement of Clause 50 with regards Density and scale and Landscape Area.

4. Building Height

The proposed building height does not comply with clause 4.3 Height of Building development standard of the Pittwater Local Environmental Plan 2014 (PLEP 2014), and the contravention of the development standard is not justified under clause 4.6 of this instrument.

Particulars:

- a) The height of the proposed development is contrary to clause 4.6 and it is not consistent with the objectives of the development standard in Clause 4.3 of PLEP 2014 and therefore not in the public interest.
- b) The written request seeking to justify contravention of the development standard under clause 4.6 PLEP 2014 is not well founded and does not satisfy the matters in clause 4.6 (5) of the PLEP 2014.

5. Pittwater Local Environmental Plan (PLEP 2014)

The proposed development is unsatisfactory in respect to Section 4.15 (1) (a) (i) of the EPA Act, as the application is found to be inconsistent with the provisions of PLEP 2014.

Particulars:

- a) The development is inconsistent with the aims of the Plan, as it relates to its environmental impact and inconsistency with the desired character of Pittwater's localities
- b) The development is inconsistent with the objectives of the RE2 Private Recreation zone.
- c) Flood Mitigation Works, as it relates to the Senior's Housing, is prohibited development
- d) The development fails to comply with the requirement of Clause 7.6 Biodiversity Protection

6. Non-compliance with Pittwater 21 Development Control Plan (P 21 DCP)

Particulars:

- a) The proposed development fails to comply with key environmental objectives of P21 DCP.
- b) The development is inconsistent with the Desired Character of A4.9 Mona Vale Locality;
- c) The proposed development fails to comply with the following clauses of P 21 DCP:
 - Clause B4.22 - Preservation of Trees and Bushland Vegetation
 - Clause B4.6 - Wildlife Corridors
 - Clause B5.1 - Water Management Plan
 - Clause B5.9 - Stormwater Management - Water Quality
 - Clause B5.10 - Stormwater Discharge into Public Drainage System
 - Clause C1.21 – Seniors Housing
 - Clause C5.1- Landscaping
 - Clause D9.1 – Character as viewed from a public place
 - Clause D9.2 – Scenic Protection

7. Public Interest

The proposal is not in the public interest

Particulars

- a) A number of objections have been received from surrounding properties raising a range of concerns with the proposal and on this basis, the proposal is not in the public interest.
- b) The site is not considered to be suitable for the development given its location within an area which renders the development, as proposed, to be inconsistent with its desired character.
- c) The development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective localities.

8. Inadequate Information

The proposal is deficient in a number of respects with regard to the information submitted.

Particulars

- a) Insufficient information provided to determine tree impacts, particularly as it relates to the Asset Protection Zone associated with the development.
- b) Owners consent has not been provided to Council from the Community Association DP270239 – Barkala Estate which is proposed to be used for access in an emergency situation as identified in the Bushfire Report.