

STATEMENT OF ENVIRONMENTAL EFFECTS

Torrens Title
subdivision of one lot
into 3

337 Lower Plateau Rd,
Bilgola Beach

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Statement of Environmental Effects

**Torrens title subdivision of one lot into three
at 337 Lower Plateau Road, Bilgola Plateau**

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March 2024

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1 Introduction

This Statement of Environmental Effects (SEE) has been prepared in support of a development application proposing the Torrens Title subdivision of one (1) lot into three (3) lots at 337 Lower Plateau Road, Bilgola Plateau.

We note that a previous development application (DA2023/0511) proposing the same Torrens Title subdivision was submitted to Council and subsequently withdrawn on 3rd March 2024 to enable additional consultant reporting to be undertaken to address concerns raised by Council in its initial assessment. Since the withdrawal, we have had the following additional information and amendments made:

- Amended driveway to delete the non-compliant 1:3 gradient section and provide a passing bay.
- Flora & Fauna Assessment.
- Waterways impact Statement.
- Additional Stormwater modelling and management plan.

In this regard, the detail of this application represents a highly considered response to the issues identified in Council's correspondence of 13th July 2023 pertaining to DA2023/0511.

Each of the proposed new lots are well in excess of the 700m² minimum lot size and are capable of providing for the construction of dwelling houses that are consistent with the desired future character of the Bilgola Locality. The proposed development provides a high level of amenity for future occupants of each lot, with minimal impact upon the amenity of adjoining properties and the natural environment.

In addition to this SEE, the application is also accompanied by the following:

- Subdivision Plan by Gartner Trovato Architects
- Indicative Architectural Plans by Gartner Trovato Architects
- Survey by Stutchbury Jacques Surveyors
- Flora and Fauna Assessment prepared by Kingfisher Urban Ecology and Wetlands
- Waterways Impact Statement prepared by Kingfisher Urban Ecology and Wetlands
- Stormwater Management Plans by Barrenjoey Consulting Engineers Pty Ltd
- Arboricultural Impact Assessment Report by Urban Forestry Australia
- Geotechnical Report by Crozier Geotechnical Consultants
- Flood Inundation & Risk Assessment Report by Barrenjoey Consulting Engineers Pty Ltd
- Traffic Assessment Report by Terraffic Pty Ltd

- BASIX Certificates
- Waste Management Plan

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act 1979 (**EP&A Act**),
- Environmental Planning and Assessment Regulation 2021,
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- Pittwater Local Environmental Plan 2014 (**PLEP 2014**), and
- Pittwater 21 Development Control Plan 2012 (**P21 DCP**).

The identified non-compliances with the minimum lot width and maximum gradient subdivision controls have been acknowledged and appropriately justified. Such variations succeed pursuant to section 4.15(3A)(b) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

This application is nominated Integrated Development and requires a controlled activity approval under the Water Management Act 2000.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the EP&A Act. It is considered that the application, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

2 Site Analysis

2.1 Site Description and location

2.1.1 The Site

The site has a legal description of Lot 5 in DP 222134 and is commonly referred to as 337 Lower Plateau Road, Bilgola Plateau. The site is an irregularly shaped battle-axe lot with a total site area of 3,410m². The battle-axe handle to Lower Plateau Road has a width of 4.57m and a length of 38.10m and the substantive portion of the lot has a maximum width of approximately 46.2m and a maximum depth of approximately 66.5m.

An aerial location photograph is at Figure 1 below.



Figure 1: Aerial photograph of the subject site

The site currently contains a two and three storey dwelling, with an attached carport, and driveway access to Lower Plateau Road to the east. The site has a maximum RL of 91.00m AHD at the Lower Plateau Road frontage, and a minimum RL of 58.58m AHD at the north-western rear corner of the site. The site undulates in response to two watercourses that dissect the site, one from the north-east and one from the south east, that join and cross the boundary near the north-western rear corner. The site contains canopy trees of varying health and significance and is heavily vegetated.

The physical and topographical characteristics of the site are depicted on the site survey by Stutchbury Jacques Surveyors, with the condition of the canopy trees and vegetation identified in the Arboricultural Impact Assessment Report by Urban Forestry Australia. The site is located within Geotechnical Hazard Area H1 and is subject to landslip. The site is also identified on Council's Biodiversity Map.



Figure 2: The driveway access from Lower Plateau Road (centre) with the neighbouring dwellings at 335 Lower Plateau Road (left) and 339 Lower Plateau Road (right)

2.1.2 The Locality

The site is zoned C4 Environmental Living under the provisions of PLEP 2014, as shown on the extract of the Zoning Map at Figure 3, on the following page. Surrounding land is also zoned C4 Environmental Living and comprises dwelling houses of varied architectural style and age. The subdivision pattern of the surrounding properties is irregular, with lot sizes varying from approximately 690m² to 3410m² (the subject site).

The site is located within the Bilgola Locality, specifically the Plateau Area, as identified by clause A4.3 of P21 DCP.

Lower Plateau Road is a local road, with no on-street parking. Overhead infrastructure is located along the high/eastern side of the street. Whilst the street has formal kerb and guttering, there are no footpaths along Lower Plateau Road. The existing streetscape of Lower Plateau Road is shown in Figure 4 on the following page.



Figure 3: Extract of Zoning Map

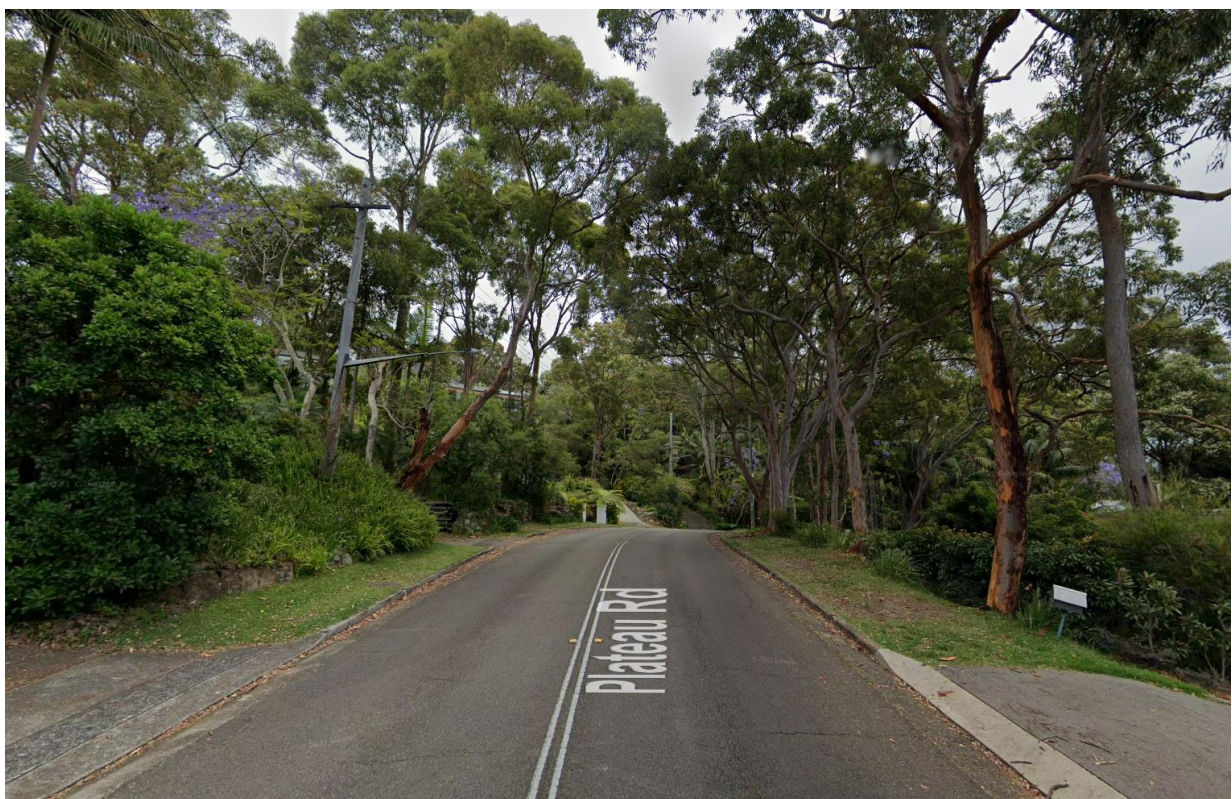


Figure 4: Existing streetscape of Lower Plateau Road (with the subject site to the right)

3 Description of Proposed Development

3.1 Details of the proposed development

The application seeks consent for the following works:

- Demolition of all existing site improvements,
- Tree removal, as outlined on the Site Plan (DA-01) and as detailed in the accompanying Arboricultural Impact Assessment Report,
- Torrens title subdivision of one lot into three lots:
 - **Lot 1:** 1164m², exclusive of access handle (58m²),
 - **Lot 2:** 803m², exclusive of access handle (270m²),
 - **Lot 3:** 1002m², exclusive of access handle (113m²)
- Internal driveway, and
- Infrastructure.

The application is also supported by indicative designs by Gartner Trovato Architects for future dwellings on each lot, to confirm that each lot can be developed in a manner that is consistent with the provisions of PLEP 2014 and P21 DCP.

Stormwater Management Plans prepared by Barrenjoey Consulting Engineers Pty Ltd demonstrate a suitable water management solution for the site, consistent with Councils' Water Management Policy.

The application is supported by a Geotechnical Risk Management Report by Crozier Geotechnical Consultants that confirms that the proposed subdivision works can be constructed to be safe from the geotechnical hazard that affects the site. Further, the application is supported by a Flood Inundation & Risk Assessment Report that confirms that the proposed works can be constructed to be safe from the flood affectation that affects the site.

An Arboricultural Impact Assessment Report has been prepared by Urban Forestry Australia to outline the extent of tree removal proposed, with recommendations for the safe retention of trees in the vicinity of the works.

The application is also supported by a Traffic Assessment Report by Terraffic Pty Ltd, confirming that the proposed development does not result in excessive or unreasonable traffic generation and that the proposed access and parking arrangements are suitable.

Finally, the application is supported by a Construction and Demolition Waste Management Plan detailing how waste is to be managed during construction.

4 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the EP&A Act, as amended. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential adverse environmental impacts are discussed below.

4.1 Pittwater Local Environmental Plan 2014

An assessment of the relevant provisions of PLEP 2014 is undertaken, below.

4.1.1 Subdivision

Clause 2.6 (Subdivision – Consent requirements) of PLEP 2014 provides that the land may be subdivided with development consent.

4.1.2 Zoning

PLEP 2014 applies to the subject site and this development proposal. The subject site is located within the C4 Environmental Living zone. The objectives of the C4 Environmental Living zone are considered as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

Comment: The proposed subdivision results in three lots that are in excess of the minimum lot size prescribed in relation to the site. The indicative dwelling design demonstrate that the new lots are capable of accommodating new dwellings that are of a form and scale that is compatible with the surrounding urban environment. The impacts associated with the proposed development are not unreasonable in light of the standards and controls applicable to the site and the established character of surrounding land.

- *To ensure that residential development does not have an adverse effect on those values.*

Comment: The proposed development provides for the safe retention of a significant number of existing canopy trees, ensuring that the vegetative character of the site is maintained. Further, the application demonstrates that dwellings can be designed with minimal, light-weight footprints to maximise tree retention and the quantum of landscaped area on each lot. The proposed development is entirely commensurate with the surrounding subdivision pattern and relationship between building and landscaping and will not have an adverse impact upon the special values of the site.

- *To provide for residential development of a low density and scale integrated with the landform and landscape.*

Comment: The proposed development provides three lots suitable for three future dwelling houses. The development is consistent with the low density character of the Bilgola Locality and is compatible with surrounding and nearby development.

- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

Comment: Whilst the loss of vegetation on an underdeveloped site is somewhat unavoidable, the proposed development has been designed to minimise the net loss of vegetation across the site, with greater than required lot sizes and demonstrated ability to develop the lots in a low impact manner.

Council can be satisfied that the proposed works are consistent with the objectives of the zone. Accordingly, there is no statutory zoning or zone objective impediment to the granting of approval to the proposed development.

4.1.3 Height of Buildings

Pursuant to clause 4.3(2) and the Height of Buildings Map of PLEP 2014, the site has a maximum building height limit of 8.5m.

4.1.4 Acid Sulfate Soils

The site is identified within Class 5 on the Acid Sulfate Soils Map of PLEP 2014. The proposed development does not involve works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

4.1.5 Earthworks

The consent authority can be satisfied that the excavation proposed to accommodate the new dwelling will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, consistent with the provisions of clause 7.2 of PLEP 2014. See further discussion with regard to clause 7.7 of PLEP 2014.

4.1.6 Biodiversity

The site is identified as “Biodiversity” on the Biodiversity Map of PLEP 2014.

The application is supported by an Arboricultural Impact Assessment Report which assesses 261 trees on the subject site and 26 on adjoining sites in the vicinity of the proposed works, as follows:

	EXEMPT (site only)	LOW RV (site only)	MEDIUM RV (site only)	HIGH RV (site only)	ADJOINING
Tree No.	1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 51, 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 65, 71, 72, 73, 74, 75, 77, 78, 88, 89, 91, 92, 93, 95, 98, 100, 102, 103, 104, 105, 106, 107, 109, 110, 118, 119, 120, 122, 123, 124, 125, 126, 127, 128, 130, 134, 135, 136, 137, 141, 142, 145, 146, 147, 148, 149, 150, 153, 155, 156, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 170, 171, 172, 173, 174, 184, 188, 191, 192, 193, 195, 196, 197, 198, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 212, 224, 234, 235, 239, 240, 241, 242, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 258, 259, 262, 264, 265, 267, 268, 269, 271, 273, 278	4, 15, 50, 186, 223, 230, 263	49, 55, 56A, 57A, 69, 76, 90A, 94, 96, 99, 101, 101A, 103A, 108, 111, 112, 113, 114, 115, 117, 129, 131, 132, 133, 138, 139, 140, 143, 152, 154, 157, 168, 169, 175, 176, 177, 178, 180, 181, 182, 183, 185, 187, 189, 190, 199, 210, 211, 217, 220, 226, 227, 231, 232, 233, 243, 257, 260, 261, 266, 270, 272, 275, 277	14, 64, 66, 67, 68, 70, 90, 97, 116, 121, 144, 151, 179, 194, 213, 225, 228, 236, 237, 238, 274, 276, 279	2A, 17, 18, 19, 24A, 36, 37, 44, 68A, 79, 80, 81, 82, 83, 84, 85, 86, 87, 214, 215, 216, 218, 219, 221, 222, 229
Total (287)	167	7	64	23	26

Table 1: Retention Value of Assessed Trees

The Arboricultural Impact Assessment Report confirms:

- No assessed tree on the site or on adjoining properties is identified as an endangered species.
- No assessed tree on the site or on adjoining properties is identified as, or associated with, a heritage item.
- 167 are individuals of species that are exempt from protection under the PDCP.
- 94 site trees are prescribed and protected under the PDCP.
- 26 trees are off-site (i.e. on adjoining properties).
- 26 prescribed site trees are proposed to be removed. Of these, only one is a high Retention Value tree (Tree 97 – Smooth-barked apple).

The proposed dwellings have been designed to have the majority of driveways and lower floor slabs to be above existing ground levels, reducing the extent of bulk excavation to isolated piers, which ensure impacts on existing tree roots are avoided. The notional encroachments that are identified initially as moderate or moderate to high are of a temporary nature and roots may continue to access soil resources under the suspended structures, noting that soil water movement is generally unimpeded for the most part by the floor and levels arrangement of the proposed structures.

Provided the recommendations of this report are adopted, and a site arboriculturist provides appropriate supervision and management of the trees during development, adverse impacts on tree vigour and structural condition of trees to be retained will be managed as practically as possible, and it is unlikely any tree decline, or additional tree removal will result.

This application is also accompanied by a Flora and Fauna Assessment and Waterways Impact Statement prepared by Kingfisher Urban Ecology and Wetlands with the Flora and Fauna assessment containing the following results:

- *No threatened flora or fauna species were recorded on the site during the survey or previously recorded via BioNet.*
- *No significant habitat features, values or landscape corridors will be impacted by the proposed development.*
- *The proposal does not trigger entry into the BOS.*
- *Tree protection will be consistent with the Arboricultural Impact Assessment*
- *The site contains vegetation that may have been part of Escarpment Moist Forest and PCT 3592 – Sydney Coastal Enriched Sandstone Forest. However, the community is highly degraded with most plants being from out of area (Palms). Replanting and weed removal are expected to improve the condition of the vegetation communities on-site.*
- *Test of significance (5-part tests) have been conducted for the microbat species. Appendix V contains 5-Part Test of Significance.*
- *While the 5-part test resulted in a ‘not significant’ impact for the species assessed, recommendations to include habitat augmentation are restricted onsite, however can be implemented in future stages of this sites development particularly around the creek line.*

Given the findings and conclusions contained within these expert reports the consent authority can be satisfied that the proposed development has been designed, sited and will be managed to avoid any significant adverse environmental impact, consistent with the provisions of clause 6.7 of PLEP 2014.

4.1.7 Geotechnical Hazards

The site is identified as being within Geotechnical Hazard H1 on the Geotechnical Hazard Map of PLEP 2014. The application is supported by a Geotechnical Risk Management Report by Crozier Geotechnical Consultants that considers each of the matters prescribed by clause 7.7(3) of PLEP 2014, and confirms that the development has been design, sited and will be constructed to minimise risk, consistent with the provisions of clause 7.7(4) of PLEP 2014.

4.1.8 Essential Services

Pursuant to clause 7.10 of PLEP 2014, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

The consent authority can be satisfied that these services will be available prior to occupation of each dwelling, and if necessary, conditions of consent can be imposed in this regard.

4.2 Pittwater 21 Development Control Plan

4.2.1 Bilgola Locality

The site is located within the Bilgola Locality, which is described as follows:

The Locality was occupied by small farming settlements from the early 1800s, and included the grazing of cattle. As the road improved and beach holidays became popular, Bilgola expanded. Until the 1950s, Bilgola remained largely a holiday location with few permanent residents. Residential development and permanent occupation of dwellings increased from the 1950s.

Since this time, the locality has developed into a predominantly low-density residential area, with dwellings built along plateau and slopes. The locality is characterised mainly by one and two-storey dwelling houses on 550-950 square metre allotments (some smaller blocks may exist). The residential areas are of a diverse style and architecture, a common thread being the landscaped, treed frontages and subdued external finishes.

The Bilgola Locality is characterised by a small steeply rising ridgeline to the north, plateau to the south, and small self-contained valley to the east. Due to the topography, significant views can be obtained through all points of the compass. Conversely, the slopes and ridge tops and headlands of the locality are visually prominent. Due to this visual prominence, the building height along the beach area shall be reduced.

*Extensive areas of natural vegetation are dominated by large specimens of the Smooth barked Apple (*Angophora costata*) on the escarpments upper slopes with the Rough Barked apple, Turpentine (*Syncarpia glomulifera*) and Bloodwood (*Eucalyptus gummiifera*) present along the lower slopes and Cabbage Tree Palms (*Livistona australis*) in the Bilgola valley.*

Much of the indigenous vegetation has been retained, particularly where there are large areas of open space, and there are significant wildlife habitats and corridors within the locality, such as on the original Wentworth Estate in the Pittwater Foreshore Area.

A unique flora and fauna green belt exists in the Bilgola Beach Area by the interconnection of Hewitt Park with Attunga Reserve via the dedicated portion of public land, previously known as Hamilton Estate, at the western end of the Bilgola Valley.

Many of the areas unique features are contained in the Bilgola Beach Area, notably:

- *The remnant littoral rainforest, recognised as one of the largest and best urban examples remaining on the New South Wales coast, and characterised by the abundant subtropical vegetation which includes a mixed variety of shrubs, ferns and palms such as the Cabbage Tree Palms (*Livistona australis*) along Bilgola Creek and its drainage lines and in the valley,*
- *The headlands with the formalised public lookout at Bilgola Head, which provides expansive coastal views,*
- *The Bilgola Bends section of Barrenjoey Road that traverses the valley escarpment and is bordered by thick indigenous vegetation,*
- *The Bicentennial Coastal walkway that passes over the southern headland to the valley, along the beach and on to the Bilgola Head lookout.*
- *Houses, vegetation, stone walls and structures in the vicinity of Bilgola Avenue, The Serpentine and Barrenjoey Road Bilgola Beach are indicative of the early settlement in the Locality, and have been identified as heritage items.*

Additionally the Bilgola Beach, headlands and valley escarpment provide unique cultural and social significance. Surveys of beach usage have revealed that crowd attendance was the fifth to sixth largest of the twenty ocean beaches in Warringah and Pittwater. Reasons for this include: uncrowded, quiet, natural environment and absence of commercial facilities. Respondents indicated that preservation of the beach and the surrounding areas unique character is desirable.

All of these unique features are valued by the community and contribute to the essence of the Bilgola Beach Area. These are to be retained and protected.

Strong community objection to the widening of Barrenjoey Road and straightening the bends, and the sub-division of the Hamilton Estate, are indicative of the extent of community concern for the need to retain the unique character of the Bilgola Beach amphitheatre and limit further public infrastructure development.

The Plateau Area is serviced by neighbourhood retail centres at Bilambee Avenue and at the intersection of Plateau Road and Grandview Drive. The locality also contains the Bilgola Plateau Primary School, Bilgola Surf Life Saving Club, and recreational facilities including rock baths, Bilgola Beach, and several reserves.

The Localities particular topographic and natural features create a particular fragility in the area, which is characterised by its vulnerability to bushfire, landslip, flood, coastal (bluff) erosion and beach fluctuation, and estuary wave action and tidal inundation.

Attempts to stabilise the bluff erosion on the southern headland in the mid 1990s with wire netting, resulted in a disastrous environmental and visual outcome.

4.2.2 DCP Compliance Table

A table demonstrating compliance with the relevant provisions of the P21 DCP is detailed as follows:

Control	Requirement	Proposed	Compliance
Part B General Controls			
B2.2 Subdivision – Low Density Residential Areas	<p>Minimum depth: 27m</p> <p>Minimum width at building line: 16m</p> <p>Lots are to be capable for providing for the construction of a building which is safe from hazards, does not unreasonably impact on the natural environment, does not adversely affect heritage, and can be provided with adequate and safe access and services.</p> <p>A person shall not subdivide land if the</p>	<p>The depth of each lot exceeds 27m.</p> <p>Based on the indicative dwelling designs: Lot 1 width: 15.4m (min.) Lot 2 width: 21m (min.) Lot 3 width: 17m (min.)</p> <p>The width of Lot 1 tapers towards the west, resulting in minor non-compliance with the 16m minimum width at the rear building line of the indicative dwelling.</p> <p>By virtue of the indicative dwelling designs, the application demonstrates that each lot is able to be developed in accordance with the provisions of PLEP 2014 and P21 DCP. Further, supporting documentation is provided to demonstrate that each dwelling can be constructed to be safe from hazards, with appropriate parking and access arrangements.</p> <p>The slope of each lot exceeds 30%, however it does not</p>	No, Acceptable on merit

Control	Requirement	Proposed	Compliance
	<p>allotment(s) intended to be created have a slope in excess of 16.7 degrees (30%), measured between the highest and lowest points on any such allotment(s).</p> <p>The minimum area for building shall be 175m².</p>	<p>pose an unworkable constraint upon the development of the land for residential purposes, as demonstrated by the indicative dwelling designs.</p> <p>The indicative dwellings each have a building footprint in excess of 175m² and maintain compliance with the 60% minimum landscaped area control prescribed by clause D3.11 of P21 DCP.</p>	
B3.1 Landslip Hazard	All development on land to which this control applies must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater.	The application is supported by a Geotechnical Risk Management Report by Crozier Geotechnical Consultants, consistent with Council's Geotechnical Risk Management Policy for Pittwater.	Yes
B3.6 Contaminated Land		The land has been used for residential purposes for an extended period of time, with no prior land uses.	Yes
B3.11 Flood Prone Land	<p>Development must comply with the prescriptive controls set out in the Matrix.</p> <p>Development on flood prone land requires the preparation of a Flood Management Report by a suitably qualified professional.</p>	The application is supported by a Flood Inundation & Risk Assessment Report by Barrenjoey Consulting Engineers Pty Ltd.	Yes

Control	Requirement	Proposed	Compliance
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Development shall not negatively impact on threatened species, endangered populations or endangered ecological communities.	The application is supported by an Arboricultural Impact Assessment, Flora and Fauna Assessment and Waterways Impact Statement which collectively demonstrate that development will not negatively impact on threatened species, endangered populations or endangered ecological communities as previously outlined in this report.	Yes
B5.13 Development on Waterfront Land	A Water Management Plan with supporting documentation is to be submitted demonstrating the feasibility of the proposed watercourse works within the site.		Yes
B5.15 Stormwater	The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.	The application is accompanied by Stormwater Management Plans which demonstrate consistency with Council's Water Management for Development Policy.	Yes
B6.1 Access Driveways and Works on the Public Road Reserve	Access Driveways include the driveway pavements, gutter crossings, supporting retaining walls, suspended slabs and related structures located on the public road reserve between the road edge and property	Existing access driveway to be retained.	N/A

Control	Requirement	Proposed	Compliance
	boundary as illustrated in Appendix 10 -Driveway Profiles.		
B6.2 Internal Driveways	The design of all internal driveways and ramps shall be in accordance with the current edition of the following Australian Standard AS/NZS 2890.1-2004: Parking Facilities - Off-Street Car Parking.	The proposed driveway has been designed in accordance with the relevant provisions of AS2890.1 including the provision of a passing bay.	Yes
B6.3 Off-Street Vehicle and Parking Requirements	2 spaces (minimum)	2 spaces per dwelling can be accommodated on each lot.	Yes
B8.1 Construction and Demolition - Excavation	All development on land to which this control applies must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater.	The application is supported by a Geotechnical Risk Management Report by Crozier Geotechnical Consultants, consistent with Council's Geotechnical Risk Management Policy for Pittwater.	Yes
B8.3 Construction and Demolition – Waste Minimisation	Waste materials generated through demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility.	The application is supported by a Construction and Demolition Waste Management Plan.	Yes

Control	Requirement	Proposed	Compliance
C1 Design Criteria for Residential Development			
C1.1 Landscaping	<p>A built form softened and complemented by landscaping.</p> <p>Landscaping that reflects the scale and form of development.</p>	<p>Sufficient landscaping will be retained on each lot to ensure that the resultant built form is screened and softened by vegetation.</p> <p>Additional landscaping requirements can be imposed as part of any consent issued with respect to future individual dwellings.</p>	Yes
C1.2 Safety and Security	The development is to be designed in accordance with the four CPTED principles.		Yes
C1.3 Views	All new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	<p>The proposed subdivision works will not result in any adverse impacts upon views.</p> <p>Furthermore, given the highly vegetated condition of the site, it is unlikely that any views will be impacted as a result of the future development of site for three dwellings.</p>	Yes
C1.4 Solar Access	The main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.	The proposed development does not result in any adverse overshadowing of adjoining properties.	Yes

Control	Requirement	Proposed	Compliance
	Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st (that is, to at least 50% of the glazed area of those windows).		
C1.5 Visual Privacy	Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation (measured from a height of 1.7 metres above floor level).	Appropriate levels of privacy will be maintained to neighbouring dwellings by virtue of the proposed spatial separation and amount of landscaping retained.	Yes
C1.6 Acoustic Privacy	Noise-sensitive rooms, such as bedrooms, should be located away from noise sources, including main roads, parking areas, living areas and communal and private open space areas and the like.	The proposed development is unlikely to result in any adverse acoustic privacy impacts.	Yes
C1.7 Private Open Space	Minimum 80m ² of private open space per dwelling at ground level, with no	The proposed lots are sufficiently sized to provide	Yes

Control	Requirement	Proposed	Compliance
	dimension less than 3 metres.	private open space for future dwellings.	
Part C4 Design Criteria for Subdivision			
C4.1 Subdivision – Protection from Hazards	All subdivision is to be designed such that adequate building platforms/building areas are provided that have a low risk due to hazards including flood, landslip, bushfire, coastline and estuarine hazards.	The subject site is identified as being affected by flooding and landslip hazards. As such, the application is supported by a Flood Inundation and Risk Assessment Report and a Geotechnical Risk Management Report to confirm that the proposed development can be undertaken in a manner that is safe from risk.	Yes
C4.2 Subdivision – Access Driveways and Off-Street Parking Facilities	<p>The design of each individual lot created within the subdivision is to provide for off street parking facilities compatible with the proposed development uses for that lot.</p> <p>The design of each individual lot created within the subdivision is to provide for an internal driveway compatible with the proposed development uses for each individual lot.</p>	<p>The application includes indicative dwelling designs which demonstrate how a dwelling, inclusive of a double garage, can be accommodated on each site.</p> <p>The application is also supported by a Traffic Assessment Report to confirm the adequacy of the proposed driveway and turning areas.</p> <p>The proposed internal driveways comply with the relevant provisions of AS2890.1.</p>	Yes
C4.3 Subdivision – Transport and Traffic Management	A traffic assessment is to be undertaken in accordance with the RTA Guidelines for Traffic	The application is supported by a Traffic Assessment Report to confirm that the proposed development does	Yes

Control	Requirement	Proposed	Compliance
	Generating Developments or similar guidelines.	not result in any adverse impacts upon traffic in the locality.	
C4.5 Subdivision – Utility Services	All lots are to be fully serviced.	Each lot will have access to all essential services.	Yes
C4.6 Subdivision – Service and Delivery Vehicle Access in Subdivisions	Roads and accessways within the subdivision are to be designed and constructed to accommodate access for waste, recycling, service, emergency and delivery vehicles.	The proposed driveways are adequately sized to accommodate vehicles associated with future dwelling houses.	Yes
C4.7 Subdivision – Amenity and Design	<p>Subdivision should be designed to ensure that:</p> <ul style="list-style-type: none"> all properties, both existing and proposed, achieve/retain a level of amenity commensurate with the locality and the desired character of the area; the impact on the environment of the completed development (including buildings to be constructed on the proposed lots) has an acceptable impact on the environment. 	<p>The application is supported by indicative dwelling designs for each lot.</p> <p>Council can be satisfied that the proposed dwellings are compatible with surrounding dwellings and are consistent with the desired future character of the locality (as detailed in Part D3, below).</p> <p>All impacts associated with the proposed development are also reasonably minimised, and the development can be undertaken in a manner that is safe from hazards.</p>	Yes

Control	Requirement	Proposed	Compliance
Part D3 Bilgola Locality			
D3.1 Character as viewed from a public place	<p>The facades of buildings presenting to any public place must address these public places, provide visual interest, have a street presence and incorporate design elements that are compatible with any design themes existing in the immediate vicinity. Blank facades that front public places are not supported.</p> <p>The bulk and scale of buildings must be minimised.</p>	Future dwelling houses will well setback from the street frontage and are unlikely to be seen from the public domain.	Yes
D3.3 Building Colours	Dark and earthy tones	The proposed development incorporates natural materials and finishes to blend with the surrounding natural environment.	Yes
D3.6 Front Building Line	6.5m	>45m Future dwellings are sited in excess of 45m from Lower Plateau Road.	Yes
D3.7 Side and Rear Building Lines	1m to one side, 2.5m to the other. 6.5m to rear.	Based on the indicative dwelling designs: Lot 1: 2m to one side, 3.9m to the other and 45m to the rear. Lot 2: 2m to one side, 4.6m to the other (no rear setback).	No, Acceptable on merit

Control	Requirement	Proposed	Compliance
		<p>Lot 3: 1.4m to one side, 2.3m to the other and 18m to the rear.</p> <p>Lot 2 has one minor area of non-compliance, with the SE corner of the kitchen marginally encroaching within the 2.5m minimum side setback. The non-compliance is limited to 180mm and is offset by far greater setbacks along the remainder of the south-western elevation.</p> <p>The non-compliance will not be perceivable from the adjoining property or the public domain, and does not detract from consistency with the outcomes of this clause.</p>	
D3.9 Building envelope	Development is to be maintained below planes projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height.	<p>Minor elements of each indicative dwelling protrude beyond the prescribed building envelope.</p> <p>Clause D1.11 of P21 DCP provides that variations will be considered on merit where the building footprint is situated on a slope in excess of 30%.</p> <p>The application of this variation is warranted as the land below the footprint of the proposed buildings exceeds 30%, and as the non-compliance does not detract from consistency with the outcomes of the building envelope control.</p> <p>Specifically, despite non-compliance with the envelope</p>	No, Acceptable on merit

Control	Requirement	Proposed	Compliance
		<p>prescribed, the indicative dwellings are maintained below the height of surrounding canopy trees and are of a bulk and scale that is contextually appropriate. The indicative dwellings are highly articulated, with shading devices and varied materiality, to ensure that bulk and scale is minimised.</p> <p>Furthermore, the non-compliance does not result in any unreasonable or adverse impacts upon the amenity of adjoining properties.</p> <p>The non-compliance is attributable to the proposed design methodology, which comprises post and beam construction, to minimise site disturbance and maximise tree retention across the site. As such, the proposed variations are considered to be reasonable in this circumstance.</p>	
D3.11 Landscaped Area – Environmentally Sensitive Land	60% minimum	<p>Lot 1: 856m² or 73.53%</p> <p>Lot 2: 622m² or 77.45%</p> <p>Lot 3: 755m² or 75.34%</p>	Yes
D3.14 Construction, Retaining Walls, Terracing and Undercroft Areas	Retaining walls and terracing shall be kept to a minimum.	Excavation has been minimised across the site.	Yes

4.3 State Environmental Planning Policy (Biodiversity and Conservation) 2021

4.3.1 Vegetation in non-rural areas

The provisions of Chapter 2 of this policy are applicable to all non-rural land across the state and aim to protect the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

The proposed development is supported by an Arboricultural Impact Assessment Report that considers the proposed impacts upon canopy trees, and confirms:

- *No assessed tree on the site or on adjoining properties is identified as an endangered species.*
- *No assessed tree on the site or on adjoining properties is identified as, or associated with, a heritage item.*
- *167 are individuals of species that are exempt from protection under the PDCP.*
- *94 site trees are prescribed and protected under the PDCP.*
- *26 trees are off-site (i.e. on adjoining properties).*
- *26 prescribed site trees are proposed to be removed. Of these, only one is a high Retention Value tree (Tree 97 – Smooth-barked apple).*

Further, this application is also accompanied by a Flora and Fauna Assessment and Waterways Impact Statement prepared by Kingfisher Urban Ecology and Wetlands with the Flora and Fauna assessment containing the following results:

- *No threatened flora or fauna species were recorded on the site during the survey or previously recorded via BioNet.*
- *No significant habitat features, values or landscape corridors will be impacted by the proposed development.*
- *The proposal does not trigger entry into the BOS.*
- *Tree protection will be consistent with the Arboricultural Impact Assessment*
- *The site contains vegetation that may have been part of Escarpment Moist Forest and PCT 3592 – Sydney Coastal Enriched Sandstone Forest. However, the community is highly degraded with most plants being from out of area (Palms). Replanting and weed removal are expected to improve the condition of the vegetation communities on-site.*
- *Test of significance (5-part tests) have been conducted for the microbat species. Appendix V contains 5-Part Test of Significance.*
- *While the 5-part test resulted in a 'not significant' impact for the species assessed, recommendations to include habitat augmentation are restricted onsite, however can be implemented in future stages of this sites development particularly around the creek line.*

The proposal is consistent with the requirements and objectives of Chapter 2 of SEPP (Biodiversity and Conservation).

4.4 State Environmental Planning Policy (Resilience and Hazards) 2021

4.4.1 Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. The existing site has been used for residential purposes for an extended period of time with no prior known land uses. Council can be reasonably satisfied that there is no contamination risk, subject to the imposition of suitable conditions relating to demolition.

Overall, the proposed development is consistent with the relevant provisions of SEPP (Resilience and Hazards).

4.5 Matters for Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the EP&A Act (as amended):

(i) *any environmental planning instrument*

The proposed development is permissible and consistent with the objectives of PLEP 2014 and P21 DCP as they are reasonably applied to the proposed works given the constraints imposed by the site's location, environmental and topographical characteristics.

(ii) *Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

There are no draft instruments that are applicable in relation to the proposed development.

(iii) *Any development control plan*

P21 DCP applies and the relevant provisions have been considered in this statement.

(iiia) *Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and*

N/A

- (iv) *The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

N/A

- (v) *Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)*

N/A

- (b) *The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,*

[The assessment considers the Guidelines (in italics) prepared by the Department of Planning and Environment in this regard].

Context and Setting

- i. *What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

These matters have been discussed in the body of this report.

- ii. *What are the potential impacts on adjacent properties in terms of:*

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

These matters have been discussed in detail earlier in this report.

Access, transport and traffic:

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *Travel Demand*

- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

The proposed development will not result in any adverse impacts upon traffic and provides adequate carparking facilities in conformity with the objectives of P21 DCP.

Public Domain

The proposed development will have no adverse impact on the public domain.

Utilities

This matter has been discussed in detail in the body of this report.

Flora and Fauna

The proposal will result not result in any unreasonable impacts upon flora and fauna.

Waste Collection

On-going waste generated by the future dwellings will be subject to weekly collection by Council's contractors.

Natural hazards

The application is supported by technical reports addressing the natural hazards that affect the site.

Economic Impact in the locality

The proposed development will generate temporary employment during construction, which is appropriate given the residential nature of the site.

Site Design and Internal Design

i) *Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*

- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the general principles, desired future character and built form controls.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

The proposed development will comply with the provisions of the Building Code of Australia. The proposal complies with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

Construction

i) *What would be the impacts of construction activities in terms of:*

- *The environmental planning issues listed above*
- *Site safety*

Normal site safety measures and procedures will ensure that no safety or environmental impacts will arise during construction.

(c) *The suitability of the site for the development*

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*

- *Are the site attributes conducive to development*

The adjacent development does not impose any unusual or impossible development constraints. The development will not cause excessive or unmanageable levels of transport demand.

The development responds to the topography and constraints of the site, is of adequate area, and is a suitable design solution for the context of the site.

(d) *Any submissions received in accordance with this act or regulations*

It is envisaged that Council will appropriately consider any submissions received during the notification period.

(e) *The public interest*

The proposed works are permissible and consistent with the intent of the PLEP 2014 and P21 DCP standards and controls as they are reasonably applied to the proposed development. The development would not be contrary to the public interest.

5 Conclusion

The proposal is permissible and in conformity with the objectives of PLEP 2014 as they reasonably relate to this form of development on this particular site, and the guidelines contained within the P21 DCP. The proposed development responds positively to the desired future character of the Bilgola Locality and is an appropriate contextual response to the development of the site.

We note that a previous development application (DA2023/0511) proposing the same Torrens Title subdivision was submitted to Council and subsequently withdrawn on 3rd March 2024 to enable additional consultant reporting to be undertaken to address concerns raised by Council in its initial assessment. Since the withdrawal, we have had the following additional information and amendments made:

- Amended driveway to delete the non-compliant 1:3 gradient section and provide a passing bay.
- Flora & Fauna Assessment.
- Waterways impact Statement.
- Additional Stormwater modelling and management plan.

In this regard, the detail of this application represents a highly considered response to the issues identified in Council's correspondence of 13th July 2023 pertaining to DA2023/0511.

The identified non-compliances with the minimum lot width and maximum gradient subdivision controls have been acknowledged and appropriately justified. Such variations succeed pursuant to section 4.15(3A)(b) of the EP&A Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

Having given due consideration to the matters pursuant to Section 4.15(1) of the EP&A Act as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance, and that the development is appropriate on merit and worthy of approval.

Boston Blyth Fleming Pty Limited



Greg Boston

Director