

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE CONSTRUCTION OF A SWIMMING POOL
AND ASSOCIATED LANDSCAPING**

LOCATED AT

8 BILKURRA AVENUE, BILGOLA PLATEAU

FOR

SANDRA COFFEE



**Prepared
July 2019**

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1.0 Introduction

This Statement of Environmental Effects accompanies plans prepared by Premier Pools on behalf of Sandra Coffee, Drawing No. 1129, Sheets L-00 – L-05, Revision B, dated 7 August 2019 detailing the construction of a swimming pool and associated landscaping at **8 Bilkurra Avenue, Bilgola Plateau**.

A separate Development Application DA2019/0575 for the construction of a new two storey dwelling was submitted on the 5 June 2019. This application is currently under review.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

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

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy No 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan 2014*

2.0 Property Description

The subject allotment is described as No. 8 Bilkurra Avenue Bilgola Plateau, being Lot 12 within Deposited Plan 25461. The property is zoned E4 Environmental Living under the Pittwater Local Environmental Plan 2014.

The site is identified as being within a Terrestrial Biodiversity Zone. This will be discussed in further detail within this submission.

The site is identified as being Acid Sulfate Soils Class 5. This will be discussed in further detail within this submission.

There are no identified hazards on this land.

3.0 Site Description

The property is generally rectangular in shape with a western frontage to Bilkurra Avenue measuring 18.290m. The northern and southern side boundaries measure a total of 45.720m. The eastern rear boundary measures 18.290. The total site area is 828.3m².

The land has a gradual slope from the western boundary to the eastern rear. Stormwater from the site will follow existing on-site arrangements to the street gutter via rainwater tanks.

The site is developed with a single storey F.C residence with a metal roof. Vehicular access to the site is provided via a concrete and gravel driveway. Tandem parking is available on existing gravel driveway.

The details of the site are included on the survey plan prepared by Intrax, Reference No. 123045, dated 4 March 2019, which accompanies the DA submission.

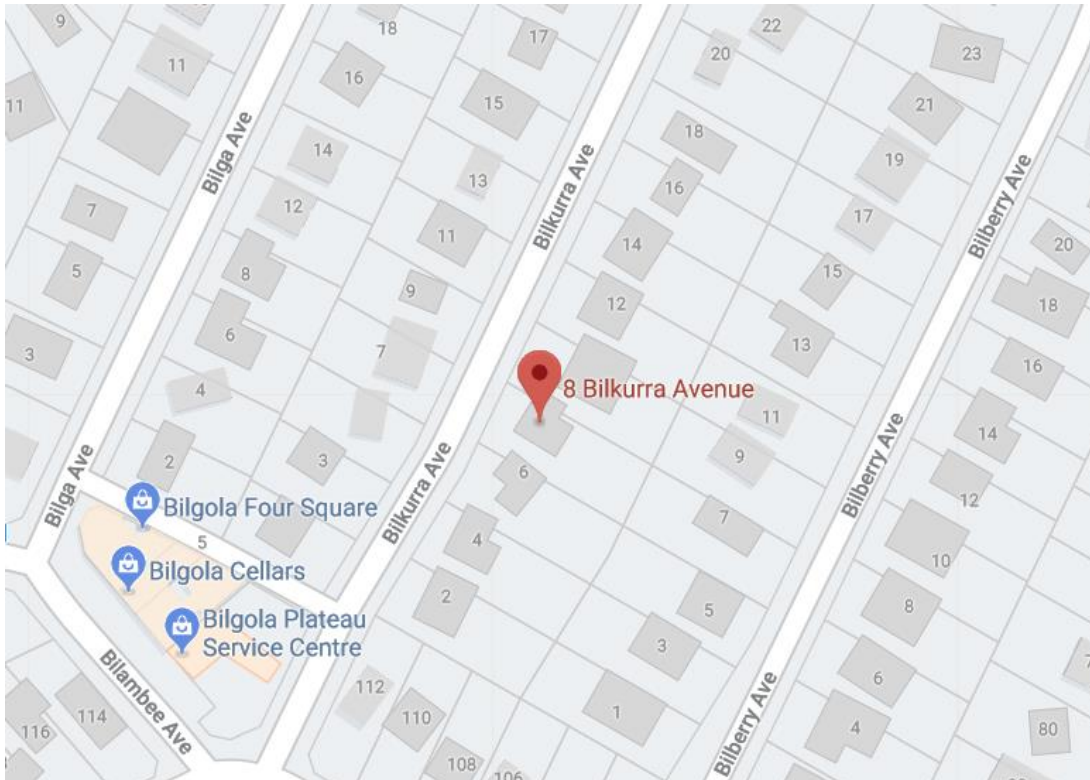


Fig 1: Location of subject site
(Source: Google Maps)



Fig 2: View of subject site, looking east from Bilkurra Avenue



Fig 3: View of subject site and neighbouring dwelling at No 10 Bilkurra Avenue, looking north-east

4.0 The Surrounding Environment

The general vicinity of the site is characterised by low density residential development of typically one and two storeys.

The area is undergoing change and renewal, with newer, larger contemporary dwellings being constructed in the immediate vicinity.

The form of the dwellings and associated structures is influenced by the sloping terrain and existing tree cover within the vicinity.

Swimming pools and other recreational facilities are common features in either the rear yard or in some instances, within the front yard areas of properties in the area.

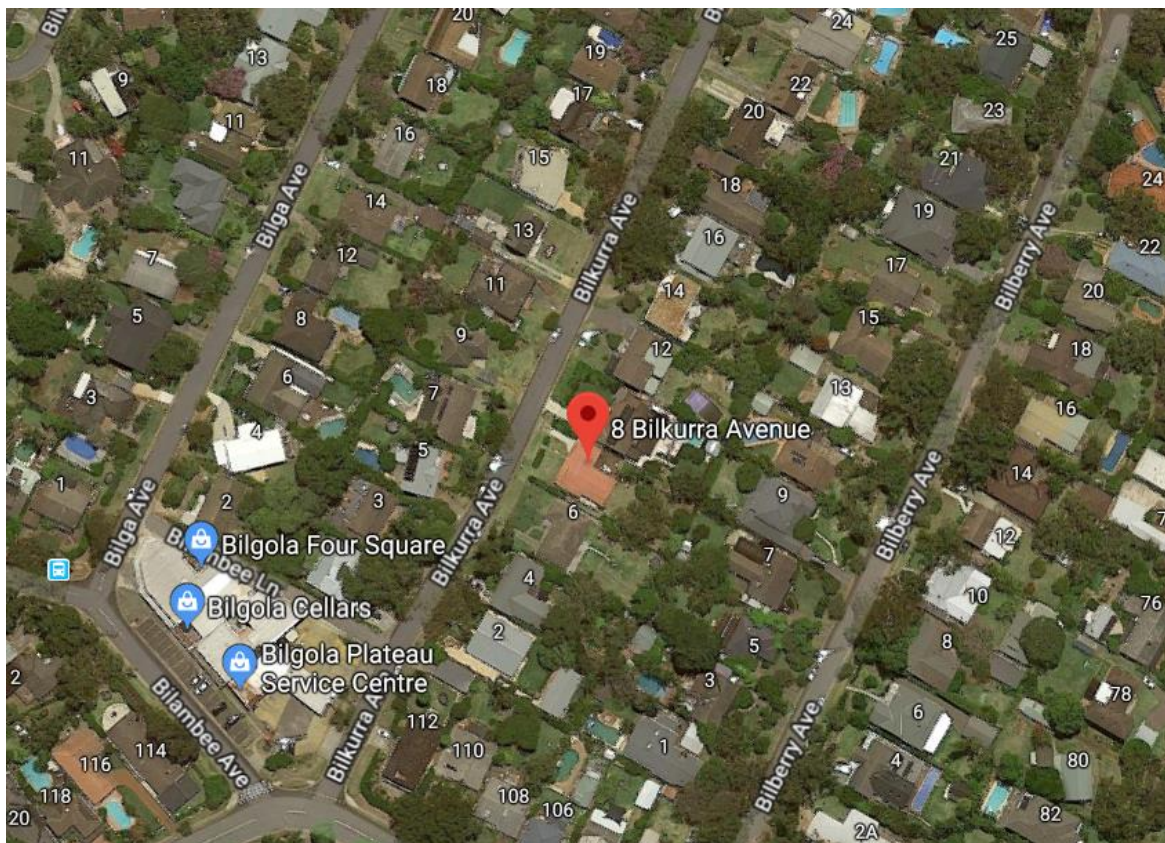


Fig 4: Aerial view of locality
(Source: Google Maps)

5.0 Proposed Development

As detailed within the accompanying plans the proposal seeks approval for the construction of an in-ground swimming pool (to adjoin a proposed alfresco area detailed under DA2019/0575) and associated landscaping in the rear yard of the premises.

New perimeter plantings are proposed as detailed in the submitted Landscape Plan (Sheet No. L-05).

The capacity of the proposed pool is approximately 26.7KL.

The pool will be separated from the dwelling by an isolation fence and from adjoining properties by existing timber boundary fences. The fence and barriers to the pool will comply with the Swimming Pools Act 1992 & Regulations and are to be constructed in accordance with AS 1926.1-1993 "Fencing for Swimming Pools."

Perimeter plantings are proposed for the southern side of the new swimming pool to provide for increased privacy and reduce any adverse acoustic impacts.

The development indices for the site are:

Site Area	828.3m ²
Required Landscaped Area	60% or 496.98m ²
Proposed Landscaped Area	58.2% or 485m ² (see DCP discussion)

6.0 Zoning and Development Controls

6.1 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposal has been designed to respect the water, thermal and energy standards required by BASIX. The pool volume will be less than 40,000L (26,700L) and therefore a BASIX Certificate is not required in this instance.

6.2 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The SEPP commenced on 25 August 2017 and replaced Clause 5.9 of Pittwater Local Environmental Plan 2014.

The aims of the SEPP are detailed in Clause 3 and note:

The aims of this Policy are:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

The proposal will see the removal of two trees for the new works. The proposal will see new native vegetation and plantings along the northern perimeter of the new swimming pool. In this instance, the proposal will not see any loss of any substantial vegetation and is therefore considered to be consistent with the aims of the SEPP.

6.4 Pittwater Local Environmental Plan 2014

Clause 2.3 Zone Objectives and land Use Table

The subject site is zoned E4 Environmental Living under the Pittwater LEP 2014.

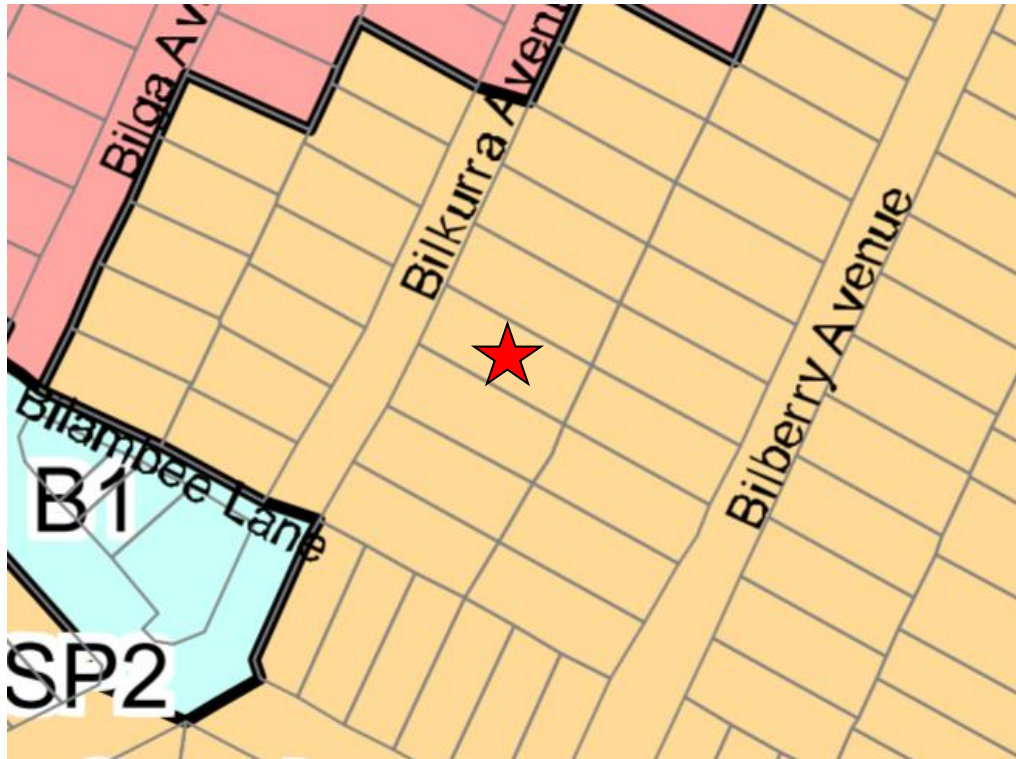


Fig 5: Extract of Pittwater Local Environmental Plan 2014

The development of and use of the land for residential purposes within the E4 Environmental Living Zone is consistent with the zone objectives, which are noted as:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To provide for residential development of a low density and scale integrated with the landform and landscape.*
- *To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.*

It is considered that the proposed construction of a new swimming pool and associated landscaping will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal provides for ancillary development which will be consistent with and complement the existing detached style housing within the locality.

- The proposed development respects the scale and form of other similar development in the vicinity and therefore complements the locality. The proposal provides for a new recreational facility (pool) which will not have any substantial impact to the neighbouring properties.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any impact on long distance views.

Clause 4.3 – Height of Buildings

The maximum building height in this portion of Bilgola Plateau is 8.5m.

Given the nature of the pool at ground level (coping max 200mm above ground level) the structure will comply with Council's height controls. The proposed new swimming pool fences will have a maximum height of approximately 1.27m and also comply with this control.

Clause 7.1 relates to acid sulfate soils. The site has been identified as being within the Class 5 Acid Sulfate Soils Area. The construction of the new swimming pool will require minor excavation, and it is not anticipated that acid sulfate soils will be encountered. A Sediment and Waste Management Plan has been prepared and is attached to this submission.

Clause 7.2 relates to earthworks. The proposal will not require any significant excavation of the site, other than to accommodate the construction of the pool. The pool design will be prepared by a suitably qualified structural engineer.

A geological site investigation report has been prepared by Intrax Consulting Engineers Pty Ltd, Ref 123045, dated 8 March 2019 and accompanies the DA submission. The earthworks to locate the pool will be carried out under the supervisions of the Consulting Structural & Geotechnical Engineers.

Clause 7.6 relates to Biodiversity Protection. The land is noted within Council's Biodiversity mapped area.

- (1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:*
- (a) protecting native fauna and flora, and*
 - (b) protecting the ecological processes necessary for their continued existence, and*
 - (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

The development will not see any substantial disturbance to the existing flora, with no significant trees or natural vegetation to be removed.

New plantings along the southern perimeter of the swimming pool are proposed.

As the works will not see any substantial reduction in the landscaped area, the proposal will not have an adverse impact on the terrain of the site. In this instance, the Objectives of Clause 7.6 will be achieved.

There are no other provisions of the Pittwater LEP 2014 that are relevant to the proposed works.

6.5 Pittwater 21 Development Control Plan 2014

Council's Pittwater 21 DCP Section B (General Controls), Section C (Development Type Controls) and Section D Bilgola Locality Statement provides a range of outcomes and controls which form the primary criteria for the control for development within the subject locality.

6.5.1 Shaping Development – Desired Character

The desired outcomes for the Bilgola Locality, in which this site falls, are as follows:

A4.3 Bilgola Locality

The Bilgola locality will remain primarily a low-density residential area with dwelling houses a maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary Dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

The three distinct areas within the Bilgola locality (as identified in Bilgola Locality Map 2) will, by their unique differences, require differing and distinct degrees of control to ensure the individual characteristics and essence of each area are maintained and enhanced:

The Plateau Area: Will provide for some dual occupancies, on land that does not have tree canopy coverage, species and habitat diversity, or other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.

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. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. 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, to provide feed trees and undergrowth for koalas and other animals, and to enhance wildlife corridors.

Natural scenic views from the Bicentennial Walkway will be preserved.

Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

The proposal provides for a new swimming pool in the rear yard of the property. The pool is generally sited at existing ground level (max 415mm above ground level) and well out of sight of neighbouring properties. Proposed new screen planting will ensure that the pool will not be prominently visible from the public domain or the adjoining properties.

The proposal does not result in the removal of any canopy trees. It is therefore considered that the proposal will achieve the desired future character of the locality.

6.5.2 Section B General Controls

The General Controls applicable to the proposed swimming pool are summarised as:

B4.22 Preservation of Trees and Bushland Vegetation

The controls seek to achieve the outcomes:

To protect and enhance the urban forest of the Northern Beaches.

To effectively manage the risks that come with an established urban forest through professional management of trees.

To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.

To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.

To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.

The proposal will not see the removal of significant vegetation and will continue to allow for suitable wildlife corridors surrounding the development. The previous existing perimeter planting to the rear yard will be supplemented with new planting as detailed in Sheet L-05.

B5.8 Stormwater Management – Water Quality – Low Density Residential

The controls seek to achieve the outcomes:

No increase in pollutants discharged with stormwater into the environment. (En)

Development is compatible with Water Sensitive Urban Design principles. (En)

This clause is applicable where development results in a new hard surface area of 50m² or greater. The proposal will increase the pervious area of the site and will see appropriate stormwater management systems in place, and therefore maintains compliance with this provision.

B8.1 Construction & Demolition – Excavation and Landfill

The controls seek to achieve the outcomes:

Site disturbance is minimised. (En)

Excavation and construction not to have an adverse impact. (En)

Excavation operations not to cause damage on the development or adjoining property. (S)

There will not be any significant excavation of the site or disturbance to the exterior ground levels, other than for the construction of the pool. No adverse impacts anticipated.

B8.2 Construction & Demolition – Erosion and Sediment Management

The controls seek to achieve the outcomes:

Waterways, coastal areas, watercourses, drainage systems and the public domain are protected from the transportation of sedimentation from development sites. (En)

Reduction of waste throughout all phases of development. (En)

Public safety is ensured. (S)

Protection of the public domain. (S, En)

As required, appropriate sedimentation controls will be implemented throughout construction to prevent transportation of sediment to adjoining properties (as shown on page L-00).

B8.3 Construction and Demolition – Waste Minimisation

The controls seek to achieve the following outcomes:

Reduction management of demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility. (En)

The construction works will seek to minimise waste by re-using material where possible or recycling appropriate materials. All construction waste will be removed from the site to an approved waste facility.

6.5.3 Section C Development Type Controls

The Development Controls applicable to the proposed development and are summarised as:

C1.1 Landscaping

The controls seek to achieve the outcome:

- A built form softened and complemented by landscaping. (En)*
- Landscaping reflects the scale and form of development. (En)*
- Retention of canopy trees by encouraging the use of pier and beam footings. (En)*
- Development results in retention of existing native vegetation. (En)*
- Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)*
- Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)*
- Landscaping enhances habitat and amenity value. (En, S)*
- Landscaping results in reduced risk of landslip. (En, Ec)*
- Landscaping results in low watering requirement. (En)*

The proposal for the swimming pool will not necessitate the removal of any significant planting and further screen planting will be provided as detailed in the submitted Landscape Plan (as shown on page L-00). The proposal will see an appropriate level of soft landscaping.

C1.3 View Sharing

The controls seek to achieve the outcomes:

- A reasonable sharing of views amongst dwellings. (S)*
- Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)*
- Canopy trees take priority over views. (En, S)*

The subject and adjoining properties currently enjoy a local outlook. As the works are for a swimming pool sited at ground level, no neighbour views are affected. The proposed new fences are 1.27m high and will not have any adverse impact on the neighbouring properties.

C1.4 Solar Access

The controls seek to achieve the outcomes:

- Residential development is sited and designed to maximise solar access during mid-winter. (En)*
- A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En)*
- Reduce usage and/dependence for artificial lighting. (En)*

The required controls to achieve the outcomes are to ensure that private open spaces of the

subject and adjoining dwellings maintain a minimum of 3 hours of solar access in mid winter.

The location of the new works and the pool being at or below ground level ensures that the nearby dwellings will maintain equitable solar access available in accordance with Council's minimum standards.

C1.5 Visual Privacy

The controls seek to achieve the outcomes:

Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design. (S)

A sense of territory and safety is provided for residents. (S)

The required controls to achieve the outcomes are to ensure that the private open space, recreation areas and living rooms within 9m of a development are suitably protected to limit the effects of direct overlooking.

The proposed setbacks of the new swimming pool will see visual amenity maintained for neighbouring properties.

The proposed pool is located largely in keeping with existing ground level and given the improved perimeter screen planting, will not result in an adverse impact to the amenity of the neighbouring properties.

C1.6 Acoustic Privacy

The controls seek to achieve the outcomes:

Noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited. (S)

Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas (S)

The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources. The proposed pool is located at ground level, with the pool equipment to be contained in a soundproof enclosure.

C1.7 Private Open Space

The controls seek to achieve the outcomes:

Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants. (S)

Private open space is integrated with, and directly accessible from, the living areas of dwellings. (S)

Private open space receives sufficient solar access and privacy (En, S).

The required controls to achieve the outcomes are to ensure that dwellings are provided with suitable private open space with an area and grade which will facilitate outdoor private recreation. The site will retain the existing rear yard for private recreation, with the proposed works to improve the quality and function of the outdoor recreational opportunities for the owners.

C 1.12 Waste and Recycling Facilities

The controls seek to achieve the outcomes:

Waste facilities are accessible and convenient, and integrate with the development. (En)
Waste facilities are located such that they do not adversely impact upon amenity of the land adjoining development or natural environment. (En, S)

The required controls to achieve the outcomes are to ensure that adequate area remains for the storage of waste and recyclable materials. There is sufficient area surrounding and within the garage for on-site storage of waste and recyclables, with the waste removed by Council contractors via the household garbage service.

C 1.17 Swimming pool safety

The controls seek to achieve the outcomes:

The promotion of personal safety. (S)
Compliance with Swimming Pools Act 1992 and Regulations (En, S)

The required controls to achieve the outcomes are to ensure that swimming pools are provided with suitable fencing in accordance with the Swimming Pools Act 1992. The proposal will provide for a perimeter fence to the swimming pool, which maintains an effective barrier between the dwelling and the pool.

6.5.4 Section D Design Criteria

The **D3 Bilgola Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

In support of the proposal, it is considered that this proposal is well designed, comprehensive and consistent with the community's vision for development in Pittwater in that it is:

- Proposing a form of development which is compatible with the existing residential character of the area by maintaining an appropriate development scale which is compatible with the vicinity.
- The proposal maintains existing views and amenity to adjoining properties.
- The proposal will not result in additional run-off to adjoining properties or public spaces.
- The development will not place additional demands on local infrastructure or on the sewage disposal system for the site.

A summary of the DCP controls for the **D3 Bilgola Locality** is provided below:

D3.1 Character As Viewed From A Public Place

The control seeks to achieve the outcomes:

To achieve the desired future character of the Locality.

To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)

To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.

The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)

High quality buildings designed and built for the natural context and any natural hazards. (En, S)

Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum. (S)

To preserve and enhance district and local views which reinforce and protect Pittwater's natural context.

To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures being a secondary component.

To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)

The required controls to achieve the outcomes are to ensure that the building form maintains a compatibility with the locality through appropriate design relief and is secondary to the landscaping of the site. In this instance, the pool is within the rear yard and will not be prominently viewed within the locality.

D3.2 Scenic Protection – General

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.
Scenic bushland and geographical landforms are the predominant features of Bilgola with the built form being the secondary component of the visual catchment. (En, S)
Preserve scenic quality as part of the recreational amenity. (S)*

As discussed, the pool is within the rear yard, together with being screened from any public view by the existing boundary. The proposal will not have any direct impact on the scenic quality of the local area. Additional plantings are to be provided within the site to assist with softening and screening the built form of the development.

D3.3 Building colours and materials

The controls seek to achieve the outcomes:

*Achieve the desired future character of the Locality.
The development enhances the visual quality and identity of the streetscape. (S)
To provide attractive building facades which establish identity and contribute to the streetscape.
To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater.
The colours and materials of the development harmonise with the natural environment. (En, S)
The visual prominence of the development is minimised. (S)
Damage to existing native vegetation and habitat is minimised. (En)*

The proposed pool will be finished in earthy tones to ensure the pool will visually complement the landscaped yard. The proposed perimeter landscaping will enhance the integration of the pool within the landscaped appearance of the site.

D3.6 Front Building Line

The controls seek to achieve the outcomes:

*Achieves the desired future character of the Locality.
Equitable preservation of views and vistas to and/or from public/private places. (S)
The amenity of residential development adjoining a main road is maintained. (S)
Vegetation is retained and enhanced to visually reduce the built form. (En)
Vehicle manoeuvring in a forward direction is facilitated. (S)
To enhance the existing streetscapes and promote a scale and density that is in keeping with the height of the natural environment.
To encourage attractive street frontages and improve pedestrian amenity.
To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.*

The proposed works are to be carried out in the rear yard of the site.

D3.7 Side and rear building line

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality. (S)
The bulk and scale of the built form is minimised. (En, S)
Equitable preservation of views and vistas to and/or from public/private places. (S)
To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.
To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S)
Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S)
Flexibility in the siting of buildings and access. (En, S)
Vegetation is retained and enhanced to visually reduce the built form. (En)
To ensure a landscaped buffer between commercial and residential zones is established.

The relevant controls to achieve this outcome are to maintain a minimum side boundary setback of 2.5m for at least one side and min 1.0m setback for the other side. A 1.0m setback from the pool coping applies for swimming pools and spas.

The proposed swimming pool coping will stand from 1m to the northern side boundary and is well setback from the rear boundary, and therefore complies with this control.

D3.11 Landscaped Area – Environmentally Sensitive Land

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality. (S)
The bulk and scale of the built form is minimised. (En, S)
A reasonable level of amenity and solar access is provided and maintained. (En, S)
Vegetation is retained and enhanced to visually reduce the built form. (En)
Conservation of natural vegetation and biodiversity. (En)
Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels. (En)
To preserve and enhance the rural and bushland character of the area. (En, S)
Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management. (En, S)

The required controls to achieve the outcomes are to limit residential development in order to maintain a minimum landscaped area of 60% of the site area.

The swimming pool will see the site present a soft landscaped area of 485m² or 58.2%. With the 6% impervious areas inclusion the proposed works will comfortably comply with this control.

The pool is up to 415mm above ground level, which assists with minimising the visual impact of the proposed pool.

On balance, the site will continue to maintain the outcomes of the clause for the following reasons:

- The proposal will not be highly visible in the locality.
- The proposal does not result in an unreasonable loss of privacy or amenity to the adjoining premises.
- The proposal does not result in the removal of any significant vegetation, with new landscape plantings to be provided adjacent to the boundaries.
- The overflow from the pool will be drained to the sewer and as such will not increase stormwater run-off.

The non-compliance of the proposal with the landscaped area is considered acceptable on merit as it will not see any adverse impacts onto neighbouring properties, and the proposed works will maintain the character of the locality and provide for a better landscaping and recreational outcome than the existing yard conditions.

D10.16 Construction, retaining walls, terracing and undercroft areas

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality.

To protect and minimise disturbance to natural landforms.

To encourage building design to respond sensitively to natural topography.

The proposal satisfactorily responds to the topography of the site. The works will not see any significant excavation of the site other than for the construction of the pool.

7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979

7.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of the Pittwater Local Environmental Plan 2014 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

7.2 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 applying to the land.

7.3 Any development control plan

The development has been designed to comply with the requirements of Council's Pittwater 21 Development Control Plan 2014.

The application has been prepared having regard to the requirements of Section B, Section C and Section D of the Pittwater 21 DCP.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular we consider that the variation to the landscaped area control is a reasonable alternative solution to compliance where the site conditions results in a challenge to designing for new development which fully respects the landscaped area criteria.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

7.4 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

No matters of relevance are raised in regard to the proposed development.

7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

No matters of relevance are raised in regard to the proposed development.

7.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

It is considered that the proposal, which seeks consent for proposed construction of a new swimming pool and associated landscaping, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 and Council's Codes and Policies, in particular the Pittwater 21 DCP 2014 and the Avalon Beach Locality Statement.

7.7 The suitability of the site for the development

The subject land is currently zoned E4 Environmental Living under the Pittwater Local Environmental Plan 2014 and is considered suitable for the proposed development.

7.8 Submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

7.9 The public interest

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

8.0 Conclusion

The principal objective of this development is to provide for the construction of a new swimming pool and associated landscaping which respects and complements the site's location.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls. By maintaining our neighbours amenity and by complementing the existing style and character of the surrounding locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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