
Sent: 9/08/2021 2:37:45 PM

Subject: Fwd: Written Objection to DA 2021/1164 - 521 Barrenjoey Road, Bilgola Beach, NSW 2107

Attachments: 521 Barrenjoey Rd - 9 August 2021 - Pic2.jpg; 521 Barrenjoey Rd - 9 August 2021 - Pic1.jpg; 521 Barrenjoey Road - Submission - Gorick - FINAL.pdf;

Sent: Monday, 9 Aug, 2021 At 1:03 PM

Subject: Written Objection to DA 2021/1164 - 521 Barrenjoey Road, Bilgola Beach, NSW 2107

TO: council@northernbeaches.nsw.gov.au

CC: anne-marie.young@northernbeaches.nsw.gov.au

Hi Anne-Marie, and hope you are well

Please see attached submission for the above mentioned property.

Furthermore, we are concerned that such a prominent site for such a large development is not being advertised properly.

We attach pictures taken at the site today (9 August 2021) and there is no yellow DA sign visible.

We are only aware of the proposal as we received the letter to our house - however our friends in the street, and in Avalon and Palm Beach had no idea - and didn't see a sign either.

Please let me know if you require any further information.

Thank you

Geoff and Therese Gorick

19 Plateau Road, Bilgola. NSW 2107.

E: geoffgorick@bigpond.com

M: 0418 426 879





Northern Beaches Council
ATTN: Anne-Marie Young

Written Objection to DA 2021/1164 521 Barrenjoey Road, Bilgola Beach, NSW 2107

Dear Ms Young,

Thank you for providing the opportunity to comment on the proposed development at 521 Barrenjoey Road, Bilgola Beach ("**the site**"). We are the owners of 19 Plateau Road, Bilgola Beach ("**our property**") where our property is located directly North West of the site.

The proposed development ("**DA**") as I understand, seeks approval for the Construction of a Dwelling House including a swimming pool requiring: construction of Site Access; Clearing and Removal of 28 Trees; construction of new entrance works in the road reserve; significant site preparation works; excavation to depths of approx. 20 metres; tunnel excavation for a length of approximately 20 metres into rock, at a depth of up to 20 metres ; installation of a car turntable; installation of two internal lifts (height of 14 and 20 metres), construction of a tiered dwelling comprising 7 separate levels over the entire site; cladding; façade treatment; and landscaping works.

I note that the DA results in many significant and unacceptable impacts on: our property; the surrounding properties; and the local environment which make the proposal unsuitable for approval.

The following non-compliances and issues have been identified which require further consideration by Council prior to any further assessment.

We attach further detail on each issue following a review of the DA documentation, a detailed review of applicable planning controls and the unacceptable impacts on our property.

1. LEP Non-compliance – Objectives of Zone E4 Environmental Living
2. LEP Non-compliance – Objectives of Zone SP2 Infrastructure
3. LEP Non-compliance – Failure to comply with Clause 4.3 Height of Buildings
4. LEP Non-compliance – Failure to comply with Clause 4.6 Exception to Development Standard
5. LEP Non-compliance – Failure to comply with Clause 5.1A – Development on land intended to be acquired for public purposes
6. LEP Non-compliance – Failure to comply with Clause 7.2 – Earthworks
7. LEP Non-compliance – Failure to comply with Clause 7.7 – Earthworks
8. LEP Non-compliance – Failure to comply with Clause 7.10 – Essential Services
9. LEP Non-compliance – Failure to comply with Schedule 1 – Clause 24 – Use of certain land in Zone SP2 Infrastructure intended to be acquired for public purposes
10. DCP Non-compliance – Failure to comply with Clause A4.3 – Bilgola Locality Statement
11. DCP Non-compliance – Failure to comply with Clause B3.1 – Landslip Hazard
12. DCP Non-compliance – Failure to comply with Clause B4.22 – Preservation of Trees and Bushland Vegetation
13. DCP Non-compliance – Failure to comply with Clause B6.1 – Access driveways and Works on the Public Road Reserve
14. DCP Non-compliance – Failure to comply with Clause B8.6 – Construction and Demolition - Traffic Management Plan
15. DCP Non-compliance – Failure to comply with Clause C1.1 – Landscaping
16. DCP Non-compliance – Failure to comply with Clause C1.3 – View Sharing

17. DCP Non-compliance – Failure to comply with Clause D3.1 – Character as viewed from a public place
18. DCP Non-compliance – Failure to comply with Clause D3.6 – Front Building Line
19. DCP Non-compliance – Failure to comply with Clause D3.7 – Side and rear building line
20. DCP Non-compliance – Failure to comply with Clause D3.9 – Building Envelope
21. DCP Non-compliance – Failure to comply with Clause D3.11 – Landscaped Area - Environmentally Sensitive Land
22. DCP Non-compliance – Failure to comply with Clause D3.14 – Construction, Retaining walls, terracing and undercroft areas

It is considered that the proposed development in its current form cannot be approved based on non-compliances with Council controls which result in significant impacts on our property; the surrounding properties; and the local environment.

The design of the proposal requires significant amendments to demonstrate compliance with the relevant controls and provide a development that achieves the objectives of both the LEP and the DCP, is reflective of the desired character of the area and does not result in unacceptable impacts on my property.

Furthermore, we believe that the proposal has failed to comply with the Northern Beaches Council's Community Participation Plan and Notification Policy for Development Application Advertising whereby no advertising sign has been erected on the property in the advertising period. It is expected there would be significant community resistance should the proponent have erected the sign as required however we were only aware of the development due to the letter drop.

We are also concerned that the residents at: 35A, 505, 509, and 25A Barrenjoey Road; 1, 2, 3, 4, 5, 6 Bilgola Terrace; and those at 1, 3, 5, 7, 9, 11, 21, 23, 25, 27, 29 Plateau Road were all not informed of the proposal however they would be required to interact with the daily traffic and workers throughout the construction should it proceed – as well as have workers parking in the local surrounding roads which has been proposed by the proponent.

We strongly object to the non-compliant development on all fronts and request you thoroughly assess the proposal and its many non-compliances in your assessment as the Consent Authority.

Given the level of concern with the application it would be appreciated if you could keep me informed as the application progresses.

Please feel free to contact me on the details below should you require any further information or wish to discuss personally.

Regards,

Geoff and Therese Gorick
19 Plateau Road, Bilgola. NSW 2107.
E: geoffgorick@bigpond.com

1. LEP Non-compliance – Objectives of Zone E4 Environmental Living

The majority of the site is zoned E4 Environmental Living. The Pittwater LEP 2014 states the following objectives for E4 Environmental Living:

- *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.*

Comment: The objectives of the zoning require low-impact residential development that does not have adverse impacts, and is of a scale integrated with the landform and landscape. The sheer scale and bulk of a proposal which is over 31 metres in built-form height is wholly unacceptable, particularly where there are impacts which make this a major-impact residential development. These impacts include, but are not limited to:

- construction of temporary site access in public land;
- clearing and removal of 28 native trees;
- construction of new permanent entrance works in the road reserve;
- significant site preparation works;
- excavation to depths of approx. 20 metres;
- tunnel excavation for a length of approximately 20 metres into rock, at a depth of up to 20 metres ;
- installation of a car turntable;
- installation of two internal lifts (height of 14 and 20 metres)
- construction of a tiered dwelling comprising 7 separate levels over the entire site;
- cladding; façade treatment; and landscaping works.
- water connection to an adjoining street (if possible)
- excavation in a major state road reserve to provide sewer infrastructure
- installation of large power network connection due to no infrastructure in the local area
- tradesman parking in nearby streets
- dust, noise and vibration from excavation
- major traffic disruption during performance of the works
- at least 250 heavy vehicle (truck) movements to remove spoil, plus many others during excavation which have not been identified, nor accounted for

2. LEP Non-compliance – Objectives of Zone SP2 Infrastructure

Works outside the site boundary are proposed to provide access to the site in an area Zoned SP2 Infrastructure. Whilst the proponent does not own this land, the Consent Authority is required to consider all impacts that the development may have on the environment and surrounds. It is also unclear if there is permission to build a frontage over the site, and the two neighbouring sites where works will include excavation, services reticulation, retaining walls, landscaping, handrails and concrete driveway works.

Within the LEP land use table for SP2 Infrastructure, the uses are stated:

- *Objectives of zone*
To provide for infrastructure and related uses.
To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- *Permitted without consent*
Nil
- *Permitted with consent*
Aquaculture; Building identification signs; Business identification signs; Environmental protection works; Roads; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose
- *Prohibited*
Any development not specified in item 2 or 3

The works proposed in the SP2 zone outside the site boundary consist of retaining walls, handrails, driveway, car turntable, and landscaping. These proposed building types in this location are not compatible with and will significantly detract from the provision of (future) infrastructure – such as the future widening of Barrenjoey Road, and will also impose significant costs on the landowner (RMS) to remove them in the future.

As a minimum, the owner of the SP2 Zone (RMS) should be contacted and they should consider the works required to rectify and reinstate a road in this location should it be approved. This is not a cost that should be borne by any taxpayer or rate payer.

3. LEP Non-compliance – Failure to comply with Clause 4.3 Height of Buildings

The proposal purports to be compliant with Clause 4.3 of the LEP however the proposal has failed to assess and provide details how it will specifically comply with the following sub-clauses of Clause 4.3 (where clauses are shown in *italics*).

Our objection against each relevant sub-clause are provided below each *sub-clause*:

- (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 proposal is large, bulky and out of scale and character. The desired locality of the Bilgola beach area is specified in the DCP where “*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.*” and “*Strict development controls will apply to this area (including a reduced building height limit to 8m) to ensure that its unique qualities are preserved through development that is sensitive to the area's characteristics.*”

The proposed development includes: construction of Site Access; Clearing and Removal of 28 Trees; construction of new entrance works in the road reserve; significant site preparation works; excavation to depths of approx. 20 metres; tunnel excavation for a length of approximately 20 metres into rock, at a depth of up to 20 metres ; installation of a car turntable; installation of two internal lifts (height of 14 and 20 metres), construction of a

tiered dwelling comprising 7 separate levels over the entire site; cladding; façade treatment; and landscaping works.

The dwelling proposed is an extremely large and commanding development when viewed from any angle and - by the Proponents own admission in the Statement of Environmental Effects – requires a disguise to attempt to try and minimise its' bulk and scale.

Any 31 metre high building which requires a tunnel into the side of a hill, as well as two lifts, up to 20 metres in rise cannot be considered to be of small scale and bulk purely in nature of the dimensions required to be constructed by the builder....

(b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment: The proponent has stated in the Statement of Environmental Effects that *"The combined effects result in a building which admirably disguises its' bulk and scale, and is in character with the adjoining dwellings and others in the immediate vicinity"* – however the proposal also informally requests variations to Development Controls where it exceeds height limits, storey limits, building envelope variation, side setback variation and front setback variation.

At the same time, the proponent has not considered any overshadowing requirements *"as the winter shadows all fall on vacant sites owned by the RMS and unlikely to be developed"* which is wholly inexcusable and would likely have a detrimental impact on adjoining vegetation.

In consideration of the surrounding and nearby development, the proposal is grossly underestimated, and inconsiderate of any surrounding developments. Based on a firsthand inspection of all properties on both Barrenjoey Road, and Plateau Road – there is not one single dwelling which is of the same bulk and/or scale of the proposal.

The proponents statement that the proposal is *in character with the adjoining dwellings and others in the immediate vicinity* is false and misleading in every aspect.

The proposal has been demonstrated to be bulky and large with no consideration for any neighbours, or surrounding development and should be refused.

(d) to allow for the reasonable sharing of views,

Comment: The proposal has not considered the sharing of views, and has not provided landscaping plans including elevations of the development when viewed from public places and surrounding properties, showing the combined impact of trees and vegetation to be retained as well as plantings to be implemented as part of the development proposal (DCP Clause C1.1) or shown the finished landscaping in the section in the master set.

An example of this is the proposed *Plumeria rubra* (frangipani) tree proposed to be planted at pool deck level in the landscape plans – which is proposed to grow to a height of 4m (refer landscape plan).

The sections of the development have failed to note, or show this. The sketch below shows the scale of the proposed tree.

Based on the limited information provided, it is difficult to understand how this would impact the view at our property – however, based on the misleading sections – and failure to provide elevations as required in the landscape plan, it would appear that the proposals approach to maximising views, at the expense of others has been the only consideration in preparation of the proposal. Particularly when a 4m tree is proposed to be planted some 31 metres above the foundation of the actual structure.

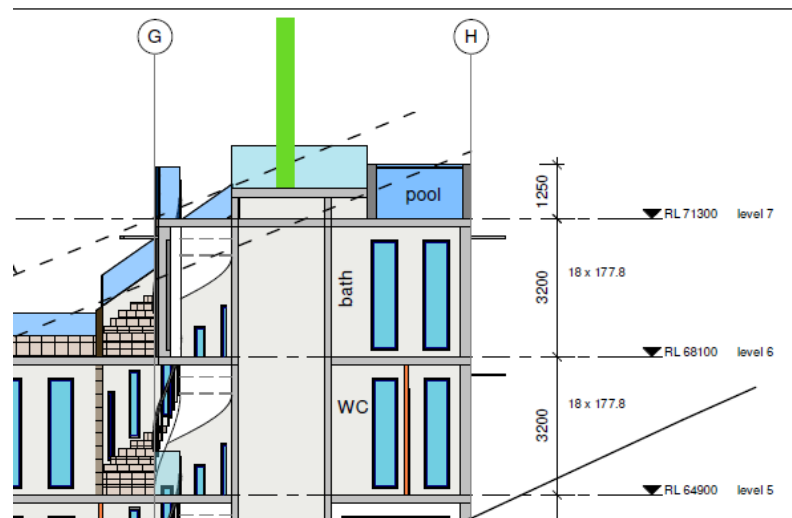


Figure 1 - Section showing proposed tree (in green) located above all other features on the section plan

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

Comment: The proponent has not provided any information as to how the building has been designed to respond sensitively to the natural topography.

The proposal appears to have been designed to maximise floor space area, and gain views at each level of the development – over 7 individual stories.

The proposal notes major excavation – up to 20 metres deep in a number of locations which has no consideration for the topography – rather simply excavate to create a dwelling – of which at least 5 stories are excavated into rock within the natural slope of the hill.

There is nothing in this proposal which is responding sensitively to the topography whatsoever and therefore the development must be refused.

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

Comment: The proposal does not in any way minimise the visual impact where – when viewed from Barrenjoey Road the proposal would appear to resemble a 6 or 7 storey building with basement parking (refer to artists impression shown on the South elevation).

The visual impact is obtrusive, and intrusive on the natural environment, and the surrounding.

Furthermore, the proponent has not considered any visual and/or overshadowing requirements “*as the winter shadows all fall on vacant sites owned by the RMS and unlikely to be developed*” which is wholly inexcusable and would likely have a detrimental impact on adjoining vegetation or sites should they be sold by RMS at any point.

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).
- (2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the [Height of Buildings Map](#) may exceed a height of 8.5 metres, but not be more than 10.0 metres if—
 - (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the [Height of Buildings Map](#) is minor, and
 - (b) the objectives of this clause are achieved, and
 - (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and
 - (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

Comment: The proponent has advised in the Statement of Environmental Effects that “The majority of the proposed dwelling complies with Council’s height limit of 8.5 m. There are some parts that exceed the 8.5 m limit but comply with the Council’s variation allowance of 10.0 m.”

Based on the plans issued, it is unclear what portion of the building exceeds this height limit – and no justification as to why there is any need for the building to exceed the height limit.

It would appear that the best way to become compliant with the Development Controls would be for the proponent to actually reduce the excessive bulk and scale of the development which has not been considered anywhere in the submission or proposal.

However the proposal has considered simply suggested that the proposal should be assessed and permitted to be non-compliant in the following areas: variations to Development Controls where it exceeds height limits, storey limits, building envelope variation, side setback variation and front setback variation.

The proposal is grossly out of scale, context and amenity for the location and suburb and is simply non-compliant and should not be approved.

4. *LEP Non-compliance – Failure to comply with Clause 4.6 Exception to Development Standard*

The proposal has failed to assess and provide details how it will specifically comply with the following sub-clauses of Clause 4.6 (where clauses are shown in *italics*).

- (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 proposal breaches multiple Development Standards yet the proponent has not lodged a Clause 4.6 variation request, the Consent Authority / Council and the Local Planning Panel therefore cannot approve the development because it is prohibited.

- (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
 - (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, and

Comment: The proposal breaches multiple Development Standards yet the proponent has not lodged a Clause 4.6 variation request, the Consent Authority / Council and the Local Planning Panel therefore cannot approve the development because it is prohibited.

5. LEP Non-compliance – Failure to comply with Clause 5.1A – Development on land intended to be acquired for public purposes

The proposal is not compliant with Clause 5.1A of the LEP. There are no details provided as to how the proposal will specifically comply with the following sub-clauses of Clause 5.1A (where clauses are shown in *italics*).

Clause 5.1A states:

- (1) *The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.*
- (2) *This clause applies to land shown on the [Land Reservation Acquisition Map](#) and specified in Column 1 of the table to this clause and that has not been acquired by the relevant authority of the State specified for the land in clause 5.1.*
- (3) *Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 2 of that table.*

Column 1	Column 2
Land	Development
Zone SP2 Infrastructure and marked “Classified road”	Roads
Zone SP2 Infrastructure and marked “Local road”	Roads

Schedule 1 – Additional Permitted Uses also has relevance which states:

- 24 *Use of certain land in Zone SP2 Infrastructure intended to be acquired for public purposes*
 - (1) *This clause applies to land in Zone SP2 Infrastructure and marked “Classified road” and identified as “Area 24” on the Additional Permitted Uses Map.*

- (2) *Development for the purposes of enabling access to a dwelling house is permitted with development consent, but only if the consent authority has considered the following—*
- (a) *the effect of the proposed development on the costs of acquisition of the land,*
 - (b) *the imminence of the acquisition,*
 - (c) *the costs associated with the reinstatement of the land for the purposes for which it is to be acquired.*

Comment: The proposal does not provide the following information, or assessment as to how it will comply with this clause:

- There is no identification of the SP2 zoned area shown on the survey plan where it sits within the site boundary – it is questioned whether the proponent is aware of this?
- There is no identification of the SP2 zoned area on the proposed development plans (where it sits within the site boundary) which may have an impact on future road works.
- The proposed development specifically contravenes point 3 which states “*Development consent must not be granted to any development on land to which this clause applies other than development for a purpose specified opposite that land in Column 2 of that table.*” Where the purpose in column 2 is identified as “roads”. Whilst no dimensions are shown, and therefore an accurate assessment is unable to be undertaken, it would appear that there are built form items within the location of SP2 zoned area both inside and outside the site boundary. Both of these should be identified in further detail. It is therefore entirely incorrect for the proponent to consider that any or all of the proposed building elements in this area shown on the plans (including driveway, handrails, retaining walls, gardens, plants, shrubs, turntable, store, garage, walls, skylights etc) could be in any way defined as “roads”.
- A simple search of the Northern Beaches website (figure 2) provides the map which would appear to clash with the proposed building works.
- Whilst Schedule 1, Clause 24 of the LEP does permit development on land intended to be acquired for public purposes it DOES NOT permit development on Land Zoned SP2 Infrastructure which is zoned “*To provide for infrastructure and related uses*” – refer to key point number 2 for further information. In consideration of development on land intended to be acquired for public purposes, the consent authority must consider:

the effect of the proposed development on the costs of acquisition of the land,

Comment: The proposed development, if approved would have significant infrastructure constructed within existing SP2 zoned land outside of the site boundary, and within the land intended to be acquired for public purposes. Based on the quantity of infrastructure proposed to be installed as part of the proposal, and the cost of a developed and habitable dwelling, versus a bare bushland block would be exponential in comparison.

The cost therefore to acquire the land after a development such as is proposed is constructed, versus the cost to acquire without any dwelling would be orders of magnitude apart of which there is no comparison.

This is not a cost that should be borne by any taxpayer or rate payer which the Consent Authority should consider in their assessment, as well as RMS as the future owner of the land.

the costs associated with the reinstatement of the land for the purposes for which it is to be acquired.

Comment: The proposed development, if approved would have significant infrastructure constructed to provide access and accessibility to the site. This would include driveway, services (such as stormwater drainage, water, communications and power to the turntable), as well as retaining walls, concrete driveways etc.

Based on the quantity of infrastructure proposed to be installed as part of the proposal, the cost would be extremely high to remove all infrastructure from: a utility relocation cost; fees for utility providers; logistics and site works exercise; as well as a disposal and demolition costs.

Furthermore, in the event of removal of the infrastructure, it is expected there would likely be significant fees associated with provision of same infrastructure during relocation to allow for reasonable ongoing use of the site. This would likely include major modifications to the existing development, and further construction of additional infrastructure such as garage, parking for same number of cars as existing development, stairs and access to existing dwelling etc.

The costs associated with “reinstatement” would therefore be incredibly high, and this is not a cost that should be borne by any taxpayer or rate payer which the Consent Authority should consider in their assessment, as well as RMS as the future owner of the land.



Figure 2 - Excerpt from Northern Beaches Council website showing SP2 zoning

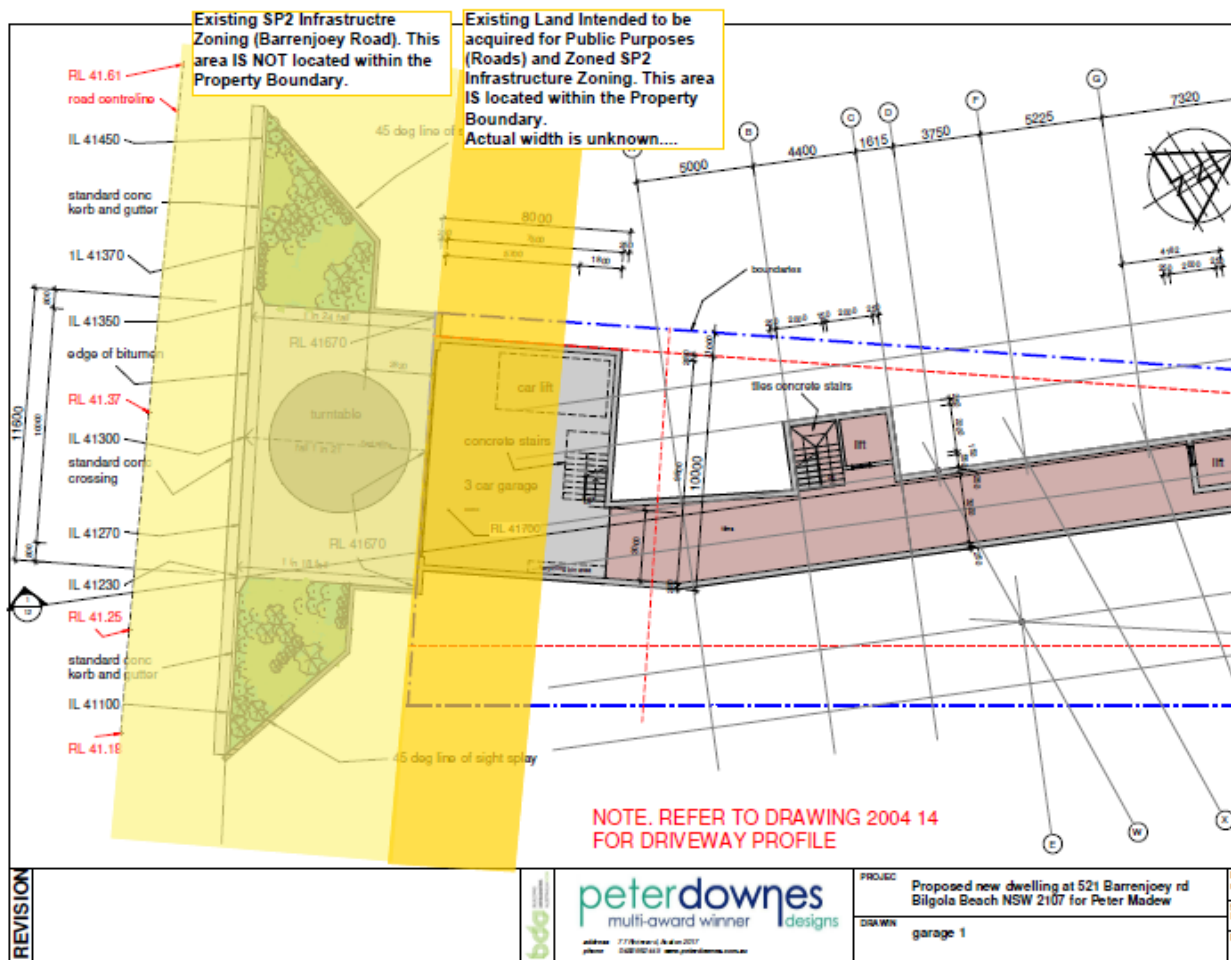


Figure 3 - Excerpt from Development Plans with overlay of SP2 Zones shown in yellow

6. LEP Non-compliance – Failure to comply with Clause 7.2 – Earthworks

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following sub-clauses of Clause 7.2 (where clauses are shown in *italics*).

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

Comment: The Geotechnical Report (Douglas Partners dated June 2021) states the following:

- *“previous investigation revealed that sandstone and siltstone bedrock typically underlies the slope at less than 1 m depth, and that the site exhibited no evidence of previous significant slope instability.”*
- *“It is therefore considered likely that much of the proposed excavation will be within sandstone/siltstone bedrock, albeit highly fractured to fractured in parts.”*

- *“There is no evidence of previous landslide or rockfalls on the site.”*

The proponent, nor the geotechnical engineering report has not addressed if there is any detrimental effect on, drainage patterns and soil stability in the locality of the development as there is in fact evidence of a very recent landslip at and in front of 517 and 519 Barrenjoey Road, and at Bilgola Terrace. RMS, in 2019 repaired this landslip on Barrenjoey Road and have installed a new guardrail, retaining wall and barrier to presumably protect the area from further landslips, erosion etc.

We have significant concerns that this proposed excavation may have a similar impact and could lead to further landslips, and potential property impacts.

Furthermore, it is surprising to note that the proponent has failed to identify, and address that the site is located in an area identified as “Geotechnical Hazard H1” on Geotechnical Hazard Map - Sheet GTH_016. Refer to point 8 for further details.

(c) the quality of the fill or the soil to be excavated, or both,

Comment: The Douglas Partners report states:

- *a site investigation has been undertaken where one borehole to 8.4m deep was drilled in 2013*
- *“is understood that the proposed development at the site will comprise the construction of a three to four level residence which will step up the slope from a garage located off Barrenjoey Road. Access to the residence will be by way of a horizontal tunnel and vertical shafts/stairs dug into the slope“*
- *“It is therefore considered likely that much of the proposed excavation will be within sandstone/siltstone bedrock, albeit highly fractured to fractured in parts.”*
- *“DP understands that the tunnel is proposed to be approximately 3 m by 3 m in cross section and will extend from approximately RL41.7 AHD at the rear of the garage for a distance of approximately 25 m to the base of a 23 m high and 2.5 m square, vertical lift-shaft located below the rear (northern end) of the proposed residence. A shorter, combined lift-shaft and stairway will also be located off the tunnel, below the southern end of the residence”*

We are concerned by the lack of investigation completed to allow the quality of the material to be excavated to be assessed, particularly where highly fractured sandstone has been expected – yet no boreholes have been drilled to confirm this somewhat flippant assumption – particularly when there is evidence of landslip nearby.

The plans and proposal suggests very significant excavation (20m deep and 14m vertical excavation for the lifts, as well as a horizontal tunnel up to 20 metres deep). We feel there should be significantly more work undertaken in the planning phases rather than simple assumptions made from one borehole drilled in a location which is not in the main excavation area, particularly where high-risk tunnelling and vertical excavation is proposed.

We have undertaken simple measurements from Google Maps and plotted these on the proponents proposal for the site and it would appear that the only borehole drilled on site is drilled in a location where there is only a garage to be excavated (with a depth of approximately 8 metres of excavation). We have also plotted surrounding properties (including ours) which is almost the same length from the deep lift excavation as the

borehole is. We believe there is major reason for concern based on the lack of subsurface knowledge taken at this stage of the development.

We believe it would be reckless for both council and the builder / developer to consider any form of excavation including vertical shafts and tunnels in such an unknown, and high risk environment where surrounding properties are close by without further investigation, studies, as well as any ongoing compliance and monitoring.

We attach two figures below to assist in demonstrating our concerns.

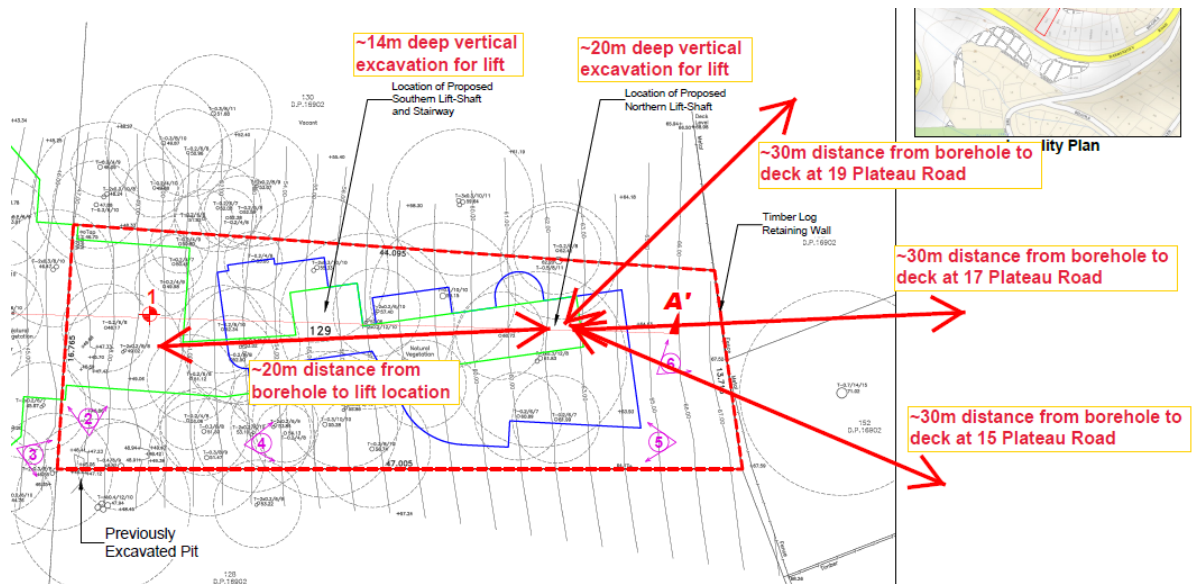


Figure 4 - Borehole location with proximity to major excavation locations, and surrounding properties

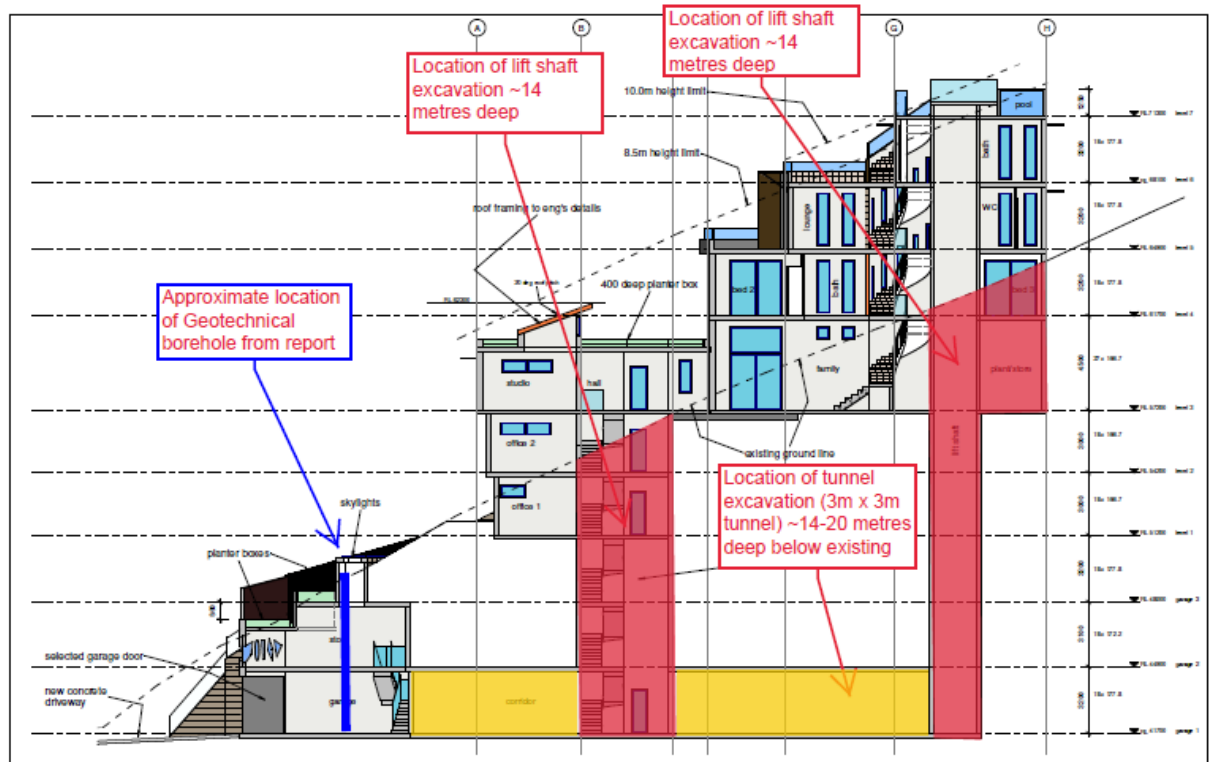


Figure 5 - Cross section showing borehole and major horizontal and vertical excavations

(d) the effect of the development on the existing and likely amenity of adjoining properties,

Comment: The proponent has not addressed and impact to amenity of adjoining developments. The works will require substantial excavation whereby the geotechnical engineer has noted:

“The actual excavation method will depend largely on the contractor appointed for the work. The potential excavation methods range from using jackhammers, hydraulic rock splitters (Dada), a rock hammer mounted on an excavator, a milling head mounted on an excavator, a small roadheader, such as an Alpine R50 or a Mitsui S65. The rock could be removed by a Bobcat front-end loader emptying into skip bins alongside Barrenjoey Road. Water spray to suppress the dust; a conventional excavation and dust control approach used for rock excavation in Sydney, would probably be required within the portal area. ”

The amenity associated with such a major excavation exercise alone, without considering any potential traffic impacts would be excessive in that significant mechanical excavation and rock breaking would be required. This would likely take months and, based on the basin of Bilgola would impact all residents, even as far as Bilgola Beach – which is totally unacceptable for the many thousands of residents and tourists alike.

Interestingly, there has been no noise or vibration impact assessment completed for the proposed works however there is proposed mass excavation, and tunnelling proposed beneath our houses in a landslip zone. It would appear that this should be a requirement of any application to simply consider the impacts prior to even consideration for approval.

Furthermore, the Geotechnical report has stated: *“There will need to be erosion and runoff control measures in place and jersey kerbs and a rock catch fence placed along the edge of Barrenjoey Road.”* This will not only impact visual amenity it will also affect traffic and cyclist

amenity along the road for the duration of the works. This is not detailed or documented anywhere in the traffic management plan, or the site plans – and is therefore hard to understand how this is proposed to work.

(e) the source of any fill material and the destination of any excavated material,

Comment: The Waste Management Plan issue states that 1500 m3 of excavated material would be disposed offsite to landfill.

This is grossly in contradiction of the Northern Beaches Council policy which requires reuse and recycling wherever possible.

It is ridiculous to suggest that the material could not be recycled offsite from natural excavation.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,

Comment: The statement of Environmental Effects does not provide any assessment of how the development – and such a major excavation (vertically and horizontally) as well as an excavation of over 1500m3 in volume will avoid, minimise or mitigate the impacts of the works. For the proponent not to consider this demonstrates that there is no consideration for the environment or community in which they are proposing to undertake their development.

The entire Geotechnical Report – which is almost wholly dedicated to earthworks, tunnelling and excavation states only one sentence for mitigation of impacts where “Water spray to suppress the dust; a conventional excavation and dust control approach used for rock excavation in Sydney, would probably be required within the portal area.”

The proponents has failed to even consider any other impacts associated with excavation such as:

- Enabling works for excavation
- Delivery of machinery for excavation
- Temporary works for excavation and associated impacts e.g. batters / tree removal etc.
- Noise control during excavation
- Dust control during excavation
- Vibration control during excavation and tunnelling (airborne and groundborne)
- Discovery of contaminated materials (if any)
- Protection of existing services (if any)
- Worker access and parking during excavation
- Removal of spoil during excavation
- Traffic management during excavation
- Cyclist and traffic management measures (for all out of hours times)
- Out of hours management for major excavation issues and tunnelling e.g. landslip / rain event
- Emergency management for out of hours associated with tunnelling e.g. tunnel collapse
- Placement and location of any sediment and erosion control devices (they are not shown on the plan anywhere)
- Breakdown management for traffic on Barrenjoey road near / at the worksite

7. LEP Non-compliance – Failure to comply with Clause 7.7 – Geotechnical Hazards

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following sub-clauses of Clause 7.7 (where clauses are shown in *italics*).

- (1) The objectives of this clause are to ensure that development on land susceptible to geotechnical hazards—
 - (a) matches the underlying geotechnical conditions of the land, and
 - (b) is restricted on unsuitable land, and
 - (c) does not endanger life or property.
- (2) This clause applies to land identified as “Geotechnical Hazard H1” and “Geotechnical Hazard H2” on the [Geotechnical Hazard Map](#).

Comment: It is surprising to note that the proponent has failed to identify, and address that the site is located in an area identified as “Geotechnical Hazard H1” on Geotechnical Hazard Map - Sheet GTH_016.

Furthermore, it would appear that there has been no assessment of any requirements to address this clause within the proposal, statement of environmental effects, and/or the geotechnical report. This is extremely concerning and demonstrates a lack of understanding of the proposal in the environment.

The proposal therefore cannot be approved as it does not address fundamental and simple requirement of the LEP.

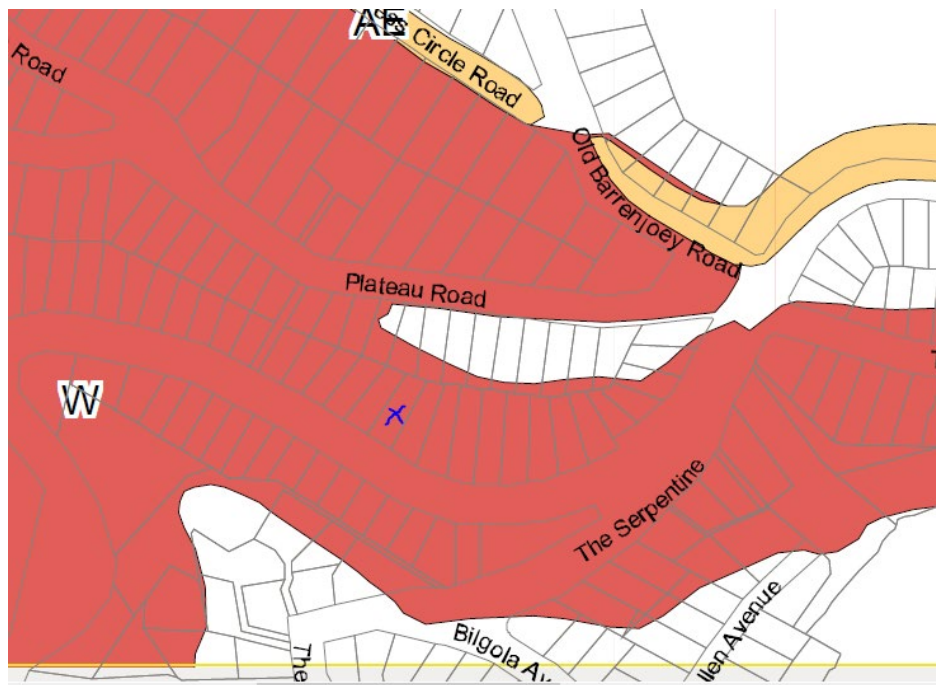


Figure 6 - Excerpt from Geotechnical Hazard Map - Sheet GTH_016 – Subject Property shown with blue “X”

- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks—
 - (a) site layout, including access,

- (b) the development’s design and construction methods,
 - (c) the amount of cut and fill that will be required for the development,
 - (d) waste water management, stormwater and drainage across the land,
 - (e) the geotechnical constraints of the site,
 - (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless—
- (a) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land, and
 - (b) the consent authority is satisfied that—
 - (i) the development is designed, sited and will be managed to avoid any geotechnical risk or significant adverse impact on the development and the land surrounding the development, or
 - (ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or
 - (iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact.

Comment: It is unclear as to how the proponent has addressed the above as the proposal does not even recognise that the site is located in an area identified as “Geotechnical Hazard H1” on Geotechnical Hazard Map - Sheet GTH_016.

The proposal therefore cannot be approved as it does not address fundamental and simple requirement of the LEP.

8. LEP Non-compliance – Failure to comply with Clause 7.10 – Essential Services

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following sub-clauses of Clause 7.10 (where clauses are shown in *italics*).

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.

Comment: It is unclear as to how the proponent has considered how the proposal can be serviced for three essential services – water, sewer and power.

A simple dial before you dig confirms the following:

- There is no water supply available or located in the vicinity of the development. The nearest water connection point is in Plateau Road and there is no consideration of how this can be connected to the premises. Water is considered an essential service and must be considered by the Consent Authority in their assessment. The ability for the dwelling to have a suitable connection should be required prior to any development consent being granted – as well as any Environmental Impact of any works associated with such a connection (including but not limited to: excavation for infrastructure, impact on traffic, impact on adjoining properties etc.)
- There is sewer available to the West of the premises (to the South of no. 515 Barrenjoey Road), however there is no investigation as to whether a suitable maintenance-free gravity connection can be made to the nearby manhole. This should be required prior to any development consent being granted.
- In the event that sewer connection is available at 515 Barrenjoey Road, the Consent Authority should also consider how any connection to the point is made due to the fact that Barrenjoey Road is extremely narrow – and busy, as well as contains area reserved for future infrastructure upgrades. This should be investigated, and provided by the proponent for further consideration prior to any development consent being granted.
- Energy Australia have confirmed in the Dial before you Dig assessment that “Ausgrid Assets Not Recorded in the Vicinity”. The ability for the dwelling to have a suitable connection should be required prior to any development consent being granted – as well as any Environmental Impact of any works associated with such a connection (including but not limited to: excavation for infrastructure, impact on traffic, impact on adjoining properties etc.)

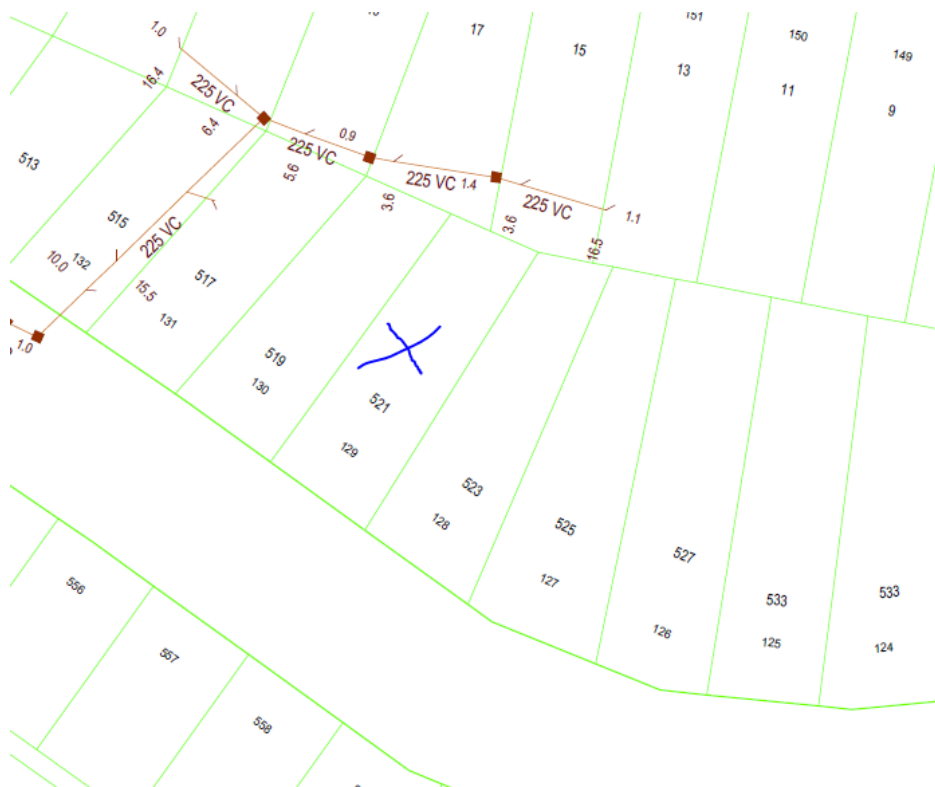


Figure 7 - Dial before you Dig Enquiry - Sydney Water nearby Assets

If further information is required, please contact:
 Ausgrid DBYD
 Phone: (02) 4951 0899
 Fax: (02) 4951 0729

Emergency Phone Number 131388



**Underground Cable Location
 Search Advice
 -- Ausgrid Assets Not Recorded in the Vicinity --
 (Caution Still Required)**

To:		Phone No:	-----
		Issue Date:	8/08/2021

In response to your enquiry, Sequence No201528923 the records of Ausgrid do not disclose that there are Ausgrid underground cables in the defined search location.

This search is based on the geographical position of the dig site as denoted in the Dial Before You Dig caller confirmation sheet and an overview is provided:

Address:	521 Barrenjoey Road Bilgola Beach NSW 2107
Job #:	30263439



Figure 8 - Dial before you Dig Enquiry - Ausgrid assets in nearby location

9. LEP Non-compliance – Failure to comply with Schedule 1 – Clause 24 – Use of certain land in Zone SP2 Infrastructure intended to be acquired for public purposes

Comment: Refer to comments in point 5. LEP Non-compliance – Failure to comply with Clause 5.1A – Development on land intended to be acquired for public purposes.

10. DCP Non-compliance – Failure to comply with Clause A4.3 – Bilgola Locality Statement

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause A4.3 (where clauses are shown in *italics*).

Desired Future Character

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.

Comment: The proposal is not in compliance with this statement in that it exceed two storeys in any way it is considered.

The Bilgola Beach Area:

Is a visual catchment that is environmentally significant and extremely susceptible to degradation. Its unique local and regional significance requires protection and preservation, and further investigation for listing as an environmental protection and/or conservation area. Strict development controls will apply to this area (including a reduced building height limit to 8m) to ensure that its unique qualities are preserved through development that is sensitive to the area's characteristics. A Visual Protection Area (as identified in Bilgola Locality Map 3) contains particular controls to minimise the impact of development that is visible from public places. The beach, valley and headlands represent a quiet uncrowded environment with no formal commercial activity. Its unique natural, unspoilt, non-commercial character makes it attractive to local residents and visitors alike and reflects the relaxed beach lifestyle. The local topography and natural features, notably the beachfront, headlands and stands of cabbage tree palms in the valley demand different sets of constraints on building design.

Comment: The proposal is not in compliance with this statement in that it exceed the "Strict development control" of 8 metres.

In fact, if the development is considered from the base of the lift to the top, then it is in fact some 30.85 metres high.

11. DCP Non-compliance – Failure to comply with Clause B3.1 – Landslip Hazard

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause B3.1 (where clauses are shown in *italics*).

All development on land to which this control applies must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater (see Appendix 5)

The development must not adversely affect or be adversely affected by geotechnical processes nor must it increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical hazards

Comment: The proposal is not in compliance with the requirements, including identifying the site as "Geotechnical Hazard H1" on Geotechnical Hazard Map - Sheet GTH_016 therefore it is inconceivable as to how the proponent could have even considered this clause in the DCP – or has completed a review of this clause.

Furthermore, the requirements of the Geotechnical Risk Management Policy for Pittwater (appendix 5) of the DCP have not been met including, but not limited to: *"provision of certified forms as set out in Councils Geotechnical Risk Management Policy for Pittwater, and A statement in relation to the proposed development outlining how it has been designed and will be constructed to remove risk to an acceptable level"*.

From our review, it would appear that the proposal does not comply with the control which also states *"The development must not adversely affect or be adversely affected by geotechnical processes nor must it increase the level of risk for any people, assets and infrastructure in the vicinity due to geotechnical hazards"*.

Our reasoning for this perceived non-compliance is due to the exotic geotechnical measures proposed by Douglas Partners such as: tunnelling at depths of up to 20 metres; vertical excavations for a depth of up to 20 metres; rock bolting; excavation depths limited to up to 1

or 2 metres with no further excavation proposed until shotcreting is completed; laser guided tunnelling; rock catch nets at the road etc etc. These types of construction methods are common in infrastructure construction – not residential dwelling construction....

It is hard to understand how the proponent could justify how the development is not adversely affected by geotechnical processes as the proposed geotechnical measures and construction techniques are the absolute cause of adverse construction techniques.

Interestingly Clause D1.17 of the DCP states that “Lightweight construction and pier and beam footings should be used in environmentally sensitive areas“ which is in complete contradiction of the measures and techniques proposed on the site.

12. DCP Non-compliance – Failure to comply with Clause B4.22 – Preservation of Trees and Bushland Vegetation

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause B6.1 (where clauses are shown in *italics*).

Requirements for other Development Applications

When a DA required for clearing vegetation the following requirements apply:

- 5. Development is to be sited and designed to minimise the impact on remnant native vegetation, including canopy trees and understorey vegetation, and on remnant native ground cover species.*
- 6. Where the applicant demonstrates that no reasonable alternative design exists and a tree must be removed, suitable compensatory tree planting is required. Details including proposed species and the location of replacement planting are to be provided.*
- 7. Development must also avoid any impact on trees on public land.*

Comment: The proposal has not considered any of the development controls whereby:

- The actual quantum of tree removal is unclear
 - i. According to the arborist 28 native trees are proposed for removal (20 within the site and 8 within the road reserve) – the arborist also suggests another tree (tree no. 50) should be removed prior to commencement of works.
 - ii. According to the arborist 25 native trees are proposed for removal (19 within the site and 6 within the road reserve)
- 11 native trees are proposed to be retained on the site by both the Arborist and the Biodiversity Consultant in their reports.
- None of the design or reports considers any alternatives apart from remove the trees..... the development control clearly stipulates that any proposal should be sited and designed to minimise the impact on remnant native vegetation – however this appears to have been disregarded.
- The proposal has not considered any compensatory tree planting for the native trees removed on the site, or in the road reserve
- No approval or consideration has been made for removal of trees in a lot not owned by the proponent (i.e. the roadway which is owned by RMS) which is in contradiction of the development control which states that “Development must also avoid any impact on trees on public land”. Either 6 or 8 native trees are proposed for removal in the road reserve to enable the development works.

The site is zoned E4 Environmental Living, being land identified as holding biodiversity and ecological significance whereas the proposal does not consider this relevant in its proposal to generally clear a large portion of the site, including 19 or 20 native trees on the site purely for building works with little to no regard for the value that the trees bring – as well as a further 6-8 trees in the road reserve to provide access. The trees provide a major benefit to the site including, but not limited to:

- minimising soil erosion on such a steep slope
- improving air quality,
- assisting in carbon sequestration,
- storm water retention on the site
- energy conservation and cooling; and
- noise reduction.

Furthermore, the retention of native trees protects and enhances bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.

The proposal should be rejected for its simple disregarding of the zoning, and the development controls associated with the zoning.

13. DCP Non-compliance – Failure to comply with Clause B6.1 – Access driveways and Works on the Public Road Reserve

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause B6.1 (where clauses are shown in *italics*).

Encroachment into the road reserve is to be minimised.

Comment: The proposal has not minimised encroachment into the road reserve where the following is required in the road reserve:

- Major excavation
- Tree clearing
- Driveway construction
- Stormwater drainage construction
- Car turntable construction
- Retaining wall and handrail construction
- Landscaping construction

We would have expected that the proposal would have considered minimising works in the road reserve however it appears that all the proposal has done is use the entire road reserve to the benefit of the development.

Furthermore, the proposal in fact does not only use its frontage, it also assumes that retaining walls and access works including a driveway can be constructed on the frontage of the adjoining lots to provide access to one site. It is unclear if permission or engagement has been sought from the adjoining property owners, and the RMS as to the ability to construct permanent works in these areas.

The proposal also disregards any future road upgrades, and the SP2 zoning contained on the actual land itself. Refer to dot point 5 LEP Non-compliance – Failure to comply with Clause 5.1A – Development on land intended to be acquired for public purposes for further details.

14. DCP Non-compliance – Failure to comply with Clause B8.6 – Construction and Demolition - Traffic Management Plan

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause B8.6 (where clauses are shown in *italics*).

For all development where either excavated materials to be transported from the site or the importation of fill material to the site is 100m³ or greater, a Construction Traffic Management Plan indicating truck movements, and truck routes is to be provided and approved by Council prior to the commencement of works.

All transport works must not cause adverse disruption or nuisance to adjoining residences, businesses or the street system.

Comment: The proposal has not considered construction traffic whatsoever, and/or the impact on Barrenjoey Road, or the surrounding network.

The traffic management plan prepared by Solution 1 Traffic Engineers (June 2021) is somewhat basic, and highly inadequate for such a major impact on such a critical arterial road which is the only access to the Northern end of the Northern Beaches.

Comments are provided below on statements made in the plan such as:

“Construction/Works Zone - No Construction/Works Zone will be required. All vehicles will load and unload from within the site.”

Comment: It is unclear how this is physically possible when there is no access to the site – and no width to park a ute / car / truck at the site in its current condition. This is a false and misleading statement.

It is expected that should the proposal proceed, then work zones or night works would be required to provide initial access to the site. This is a major part of the proposal, which has not been considered anywhere in the traffic management plan, or the proposal – and will provide significant impact on the amenity of all surrounding residents.

“Site Access - Site access will be via Barrenjoey Road”

“Truck Loading/Unloading - All trucks will load/unload within the site”

Comment: It is unclear how this is physically possible when there is no access to the site – and no width to park a ute / car / truck at the site in its current condition.

It is expected that should the proposal proceed, then work zones or night works would be required to provide initial access to the site. This is a major part of the proposal, which has not been considered anywhere in the traffic management plan, or the proposal – and will

provide significant impact on the amenity of all surrounding residents. This is a false and misleading statement.

Furthermore, it is unclear how any work would be undertaken in the initial stages to allow for creation of access to the site where there is less than 1 metre from the existing white line to a vertical rock embankment. This is a critical section of Barrenjoey Road, and a critical portion of the works are required here. The proposal is simply inadequate in addressing this risk and part of the works where any mistake or issue has the potential to stop all traffic into and out of the Northern part of the Northern Beaches.

“Public Car Parking

The impact on local traffic will be kept to a minimum. The following will be implemented to achieve this:

- Trucks and delivery vehicles will park to load/unload within the site.*
- Workers will park in the surrounding streets.*
- Where possible, labourers will car pool.”*

Comment:

- The proposal states that the impact on local traffic will be kept to a minimum however the proposal fails to advise how the impact to Barrenjoey Road will be mitigated during early construction phases. In the Waste Management Plan, the volume of excavated material to go off site is 1500m³. The Traffic Management Plan states that each truck will hold 6m³ of material – and also advises that there will only be a total of 16 truckloads required to be moved offsite during *Site Preparation (2 weeks) and Excavation, Driveway & Tunnel (10 weeks)*.

There is a fundamental misleading of the Consent Authority and the public in the reports as 1500m³ of spoil removed, at 6m³ per truckload equals not 16 truckloads, but 250 truckloads to be removed from site. This is a false and misleading statement.

Furthermore, the proposal states only that two trips for a 1.7tonne excavator will be required in all the excavation phases (Site Preparation and Excavation, Driveway & Tunnel stages) however the geotechnical report advises that multiple machines will be required throughout all phases of excavation. This is another false and misleading statement.

Additionally, during the excavation phases (Site Preparation and Excavation, Driveway & Tunnel stages) the geotechnical report states that significant quantities of shotcrete and rockbolting will be required which generally require deliveries of materials such as concrete and steel – yet none of these trips / truckloads have been considered in the assessment of vehicles accessing site. The geotechnical report also states that many inspections by the engineer, and the geotechnical engineer will be required. It is not clear where the engineer, and the geotechnical engineer will access the site safely from to complete their investigations.

- There is currently no parking near, or adjacent to the site on Barrenjoey. The proposed parking in surrounding streets introduces an extreme risk where workers, based on site hours of 8am commence and 5pm finish will presumably be walking along Barrenjoey Road to access the site for a period of 64 weeks – this is absolutely unacceptable for the

thousands of cars, trucks and buses which use this road every day and every afternoon to access the Northern part of the beaches.

Furthermore, there is currently limited parking on the surrounding streets for residents – let alone additional tradesmen who will access the site in their utes and trucks for well over a year.

Appendix D – Swept Path Diagrams – 8.8m MRV

Comment:

- The proposal provides one single swept path diagram in the Traffic Management Plan however it is unclear of the context, and/or stage of when the swept path will be implemented in the development noting that there is less than 1 metre between the existing white line and a vertical embankment in the current state.

Use of the swept path diagram may be possible following establishment of the access to the site however there is no consideration for establishment within the proposal anywhere. Access to the site is critical and a key part of this development and its impact has been grossly understated within the planning of the development and the DA submission.

It is our opinion that the impact of traffic is a fundamental consideration which has been loosely considered in the DA submission – where a requirement of the DCP is that any transport associated with a Development “must not cause adverse disruption or nuisance to adjoining residences, businesses or the street system.” It is blatantly obvious that the proposal, nor the proponent has any regard for the potential impact on the surrounding suburbs as a result of the proposal. Furthermore, it is unclear how the biggest constraint – access – has been considered in the proposal. The traffic management plan contains many conflicting, false and misleading statements and is unclear that it has even considered some of the simple issues associated with traffic and access, and it certainly has not considered the more difficult and critical issues.....

The proposal is in clear disregard and breach of the DCP Clause and should be refused by the Consent Authority on this basis.

15. DCP Non-compliance – Failure to comply with Clause C1.1 – Landscaping

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause C1.1 (where clauses are shown in *italics*).

Landscaping plans shall include elevations of the development when viewed from public places and surrounding properties, showing the combined impact of trees and vegetation to be retained as well as plantings to be implemented as part of the development proposal.

Comment: The proposal has not considered the sharing of views, and has not provided landscaping plans including elevations of the development when viewed from public places and surrounding properties, showing the combined impact of trees and vegetation to be retained as well as plantings to be implemented as part of the development proposal (DCP Clause C1.1) or shown the finished landscaping in the section in the master set.

16. DCP Non-compliance – Failure to comply with Clause C1.3 – View Sharing

Comment: The proposal has not considered the sharing of views, and has not provided landscaping plans including elevations of the development when viewed from public places and surrounding properties, showing the combined impact of trees and vegetation to be retained as well as plantings to be implemented as part of the development proposal (DCP Clause C1.1) or shown the finished landscaping in the section in the master set.

An example of this is the proposed *Plumeria rubra* (frangipani) tree proposed to be planted at pool deck level in the landscape plans – which is proposed to grow to a height of 4m (refer landscape plan).

Based on the limited information provided, it is difficult to understand how this would impact the view at our property – however, based on the misleading sections – and failure to provide elevations as required in the landscape plan, it would appear that the proposals approach to maximising views, at the expense of others has been the only consideration in preparation of the proposal. Particularly when a 4m tree is proposed to be planted some 31 metres above the foundation of the actual structure.

Furthermore, the DCP states:

“Views are not to be obtained at the expense of native vegetation”

Comment: It is unknown how the removal of 28 trees – per the arborist report – are able to be justified for removal that they are not the expense for view maximisation.

This holds true where the development proposal is grossly in the following areas: variations to Development Controls where it exceeds height limits, storey limits, building envelope variation, side setback variation and front setback variation – all of which could be reduced – however have not been which has resulted in a development not in scale or context with the area.

Information to be included in the Statement of Environmental Effects

- *An assessment of the views available from the property, and views from other properties and public domain areas which may be affected by the proposal.*
- *An analysis of any view loss and explanation of the design features and location of the proposed structure in terms of how the proposal seeks to achieve equitable view sharing and view retention.*
- *An explanation of the proposal's compliance with the Land and Environment Court's Planning Principles for viewsharing.*

Comment: None of the above has been provided, nor justified in the proposal and we are therefore unable to comment on the compliance. A simple request to contravene Development Standards has been requested in lieu of compliance which is unsatisfactory.

Technical Reports and Supporting Information

- *Where there is the potential for view loss to adjoining developments and / or public viewing points, an assessment of the view loss, supported by a clearly documented photographic analysis shall be provided.*
- *It may also be appropriate that height poles be erected to demonstrate the impact of the finished development on view lines.*

- *Where height poles are erected, a statement by a Registered Surveyor should be provided certifying the height and location of the poles in relation to the proposed structures.*
- *Additional View Sharing controls for the Newport Commercial Centre are provided in Part D10.26 of this DCP.*
- *Applicants are advised to consult with the possible affected parties where view sharing is an issue with a view to obtaining consensus in the earliest stages of the development process.*

Comment: None of the above has been provided, nor justified in the proposal and we are therefore unable to comment on the compliance. A simple request to contravene Development Standards has been requested in lieu of compliance which is unsatisfactory.

Furthermore, as a residence where our view is highly affected – particularly of Bilgola Beach, we have not once been contacted by anyone related to the development – nor seen height poles to understand the potential impact.

17. DCP Non-compliance – Failure to comply with Clause D3.1 – Character as viewed from a public place

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause D3.1 (where clauses are shown in *italics*).

The bulk and scale of buildings must be minimised.

Garages, carports and other parking structures including hardstand areas should not be the dominant site feature when viewed from a public place. Parking structures must be located behind the front building line, preferably set back further than the primary building, and be no greater in width than 50% of the lot frontage, or 7.5 metres, whichever is the lesser.

Comment: The proposal has not considered the bulk and scale of the development and in fact confirms that the surrounding bushland is required to hide the bulk and scale of the development.

Furthermore, the development is in contravention of the Development Control where the width of the carparking structure is 10m, yet the width of the lot frontage is 16.765m (per survey).

The width is therefore 59.64% of the lot frontage and is non-compliant. The sketch from the DA plans below provides further details.

The Consent Authority should refuse the development on the basis of this non-compliance.

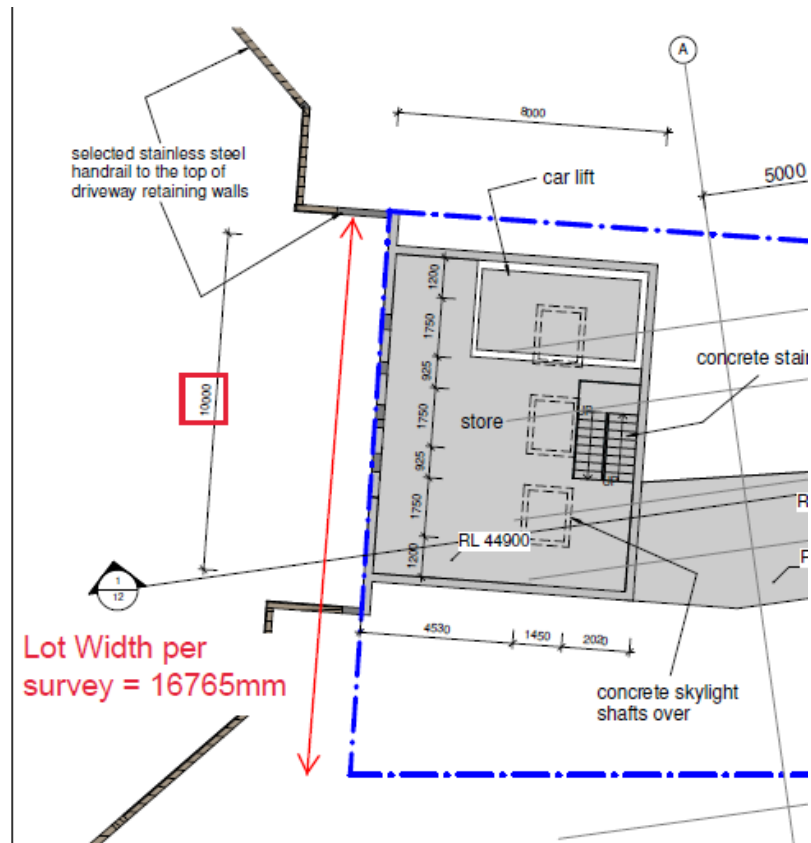


Figure 9 - Carpark width versus lot width

Additionally, it is difficult to understand how the garage is not the dominant site feature when viewed from a public place (i.e. Barrenjoey Road), where the majority of the visible building elements will be the garage due to the topography of the site.

The render below demonstrates – taken from the proponents own architectural plans – the first 10 metres in height of the proposed development which is wholly consumed by garage and carparking area. Only above 10 metres do parts of the dwelling begin to be seen. This is entirely in contradiction of the DCP clause.



Figure 10 - Elevation of ground level up to 10m vertical height of development when viewed from Barrenjoey Road

Proposed development having a value greater than \$1million to be accompanied by a photo montage(s) of the development as it will present to public places including waterways, reserves and roads.

Proposed development having a value greater than \$2 million to be accompanied by a model, which may be in the form of a physical scale model or an electronic (digital) scale model.

Comment: The proposal does not appear to have complied with provision of either:

- a photo montage(s) of the development as it will present to public places including waterways, reserves and roads.
- a model, which may be in the form of a physical scale model or an electronic (digital) scale model.

It is envisaged that the reality of such a bulky and oversized development would be realised following review of both the photomontage, and a model.

The proposal is not compliant with any of this clause and should be rectified to provide further detail by the Consent Authority.

18. DCP Non-compliance – Failure to comply with Clause D3.6 – Front Building Line

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause D3.1 (where clauses are shown in *italics*).

The minimum front building line shall be in accordance with the following table.....

Land zoned E4 Environmental Living or SP2 Infrastructure adjoining Barrenjoey Road Front Building Line (metres) 10 or established building line, whichever is the greater

Comment: The proposal has located the garage directly on the boundary of the lot and therefore there is zero setback for this portion of the development.

It is understood however, that considerations may be made for some sites where the DCP states:

Where the outcomes of this control are achieved, Council may accept a minimum building setback to a secondary street of half the front building line.

Where the outcomes of this control are achieved, Council may accept variation to these building lines in the following circumstances:

- *considering established building lines;*
- *degree of cut and fill;*
- *retention of trees and vegetation;*
- *where it is difficult to achieve acceptable levels for building;*
- *for narrow or irregular shaped blocks;*
- *where the topographic features of the site need to be preserved;*
- *where the depth of a property is less than 20 metres.*

Where carparking is to be provided on steeply sloping sites, reduced or nil setbacks for carparking structures and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable.

It is unclear how this clause can be considered as the clause confirms that “all other structures on the site must satisfy or exceed the minimum building line applicable.”

Per previous comments, there are non-compliances height limits, storey limits, building envelope variation, side setback variation and front setback variation therefore the clause cannot be used for assessment purposes where other non-compliances are on the site.

19. DCP Non-compliance – Failure to comply with Clause D3.7 – Side and rear building line

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause D3.7 (where clauses are shown in *italics*).

The Side and Rear Building Line Setback (metres) shall be 2.5 at least to one side; 1.0 for other side; 6.5 rear

Comment: The proposal appears to comply with some setbacks however a portion of the dwelling (side and rear) appear to encroach on the setback and is therefore non-compliant in at least two different locations for a portion of the development.

As a minimum, the plans should be updated to show compliance, and non-compliance with dimensions to allow full assessment.

The Statement of Environmental Effects flippantly dismisses the non-compliance without any explanation or further justification as to the impact.

Excerpt from SoEE

“side setbacks – the proposed dwelling complies with the 2.5m setback, but the private open space does not. A variation is sought as there are no structures above ground level, and the non-compliance does not result in any view loss, privacy, or overshadowing issues.

The proposed development fully complies with the 1.0m setback.

rear setback – the proposed dwelling complies with the rear setback, but the private open space does not. A variation is sought as there are no structures above ground level, and the non-compliance does not result in any view loss, privacy, or overshadowing issues.”

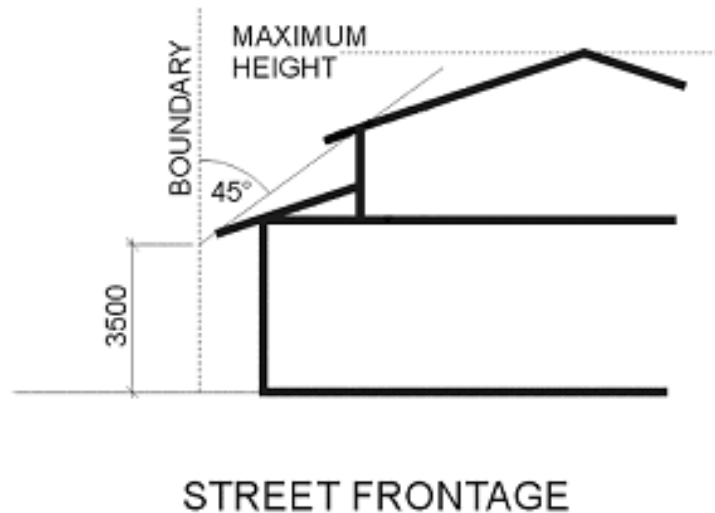
It is unclear why a non-compliance is deemed acceptable by the Proponent with no apparent justification or reasoning, or effort to make the proposal compliant.

The proposal should be rejected by the Consent Authority based on non-compliance of all (front, rear, side) setbacks.

20. DCP Non-compliance – Failure to comply with Clause D3.9 – Building Envelope

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause D3.9 (where clauses are shown in *italics*).

Buildings are to be sited within the following envelope:



Planes are to be projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries to the maximum building height (refer to Pittwater Local Environmental Plan 2014).

Variations

Where the building footprint is situated on a slope over 16.7 degrees (ie; 30%), variation to this control will be considered on a merits basis.

Information to be included in the Statement of Environmental Effects

A statement indicating compliance with the building envelope control. Should a variation be sought please provide a justification relating to the outcomes of the control and desired future character.

Comment: The proposal does not comply with the Development Control whatsoever and provides no justification relating to the outcomes of the control and desired future character.

Furthermore, there are many non-compliances in the proposal including height limits, storey limits, side setback variation and front setback variation – all of which contribute to the building envelope being breached.

The proponent has also failed to provide a written statement to justify, and apply for a merit assessment for the non-compliance.

21. DCP Non-compliance – Failure to comply with Clause D3.11 – Landscaped Area - Environmentally Sensitive Land

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause D3.11 (where clauses are shown in *italics*).

Controls

The total landscaped area on land zoned R2 Low Density Residential, R3 Medium Density Residential or E4 Environmental Living shall be 60% of the site area.

The use of porous materials and finishes is encouraged where appropriate.

Split Zones

On lots where there is a split zoning and part of the lot is zoned RE1 Public Recreation, E2 Environmental Conservation or SP2 Infrastructure, the calculation for total landscaped area will be based only on that area not zoned RE1 Public Recreation, E2 Environmental Conservation or SP2 Infrastructure. It will not be based on the site area of the whole lot.

Comment: The proposal does not comply with the Development Control as the area Zone SP2 has in fact been included in the total site area. The area which is Zoned SP2 (at the Barrenjoey Road side) should be removed and the calculation updated.

Furthermore, some of the landscaped area forms part of non-compliant building areas at the side and rear setbacks which should be removed to ensure compliance – as a minimum.

The sketch below shows the area zoned SP2. Inclusion of this area is a breach of the Development Control and the proposal should be refused by the Consent Authority until this is rectified.

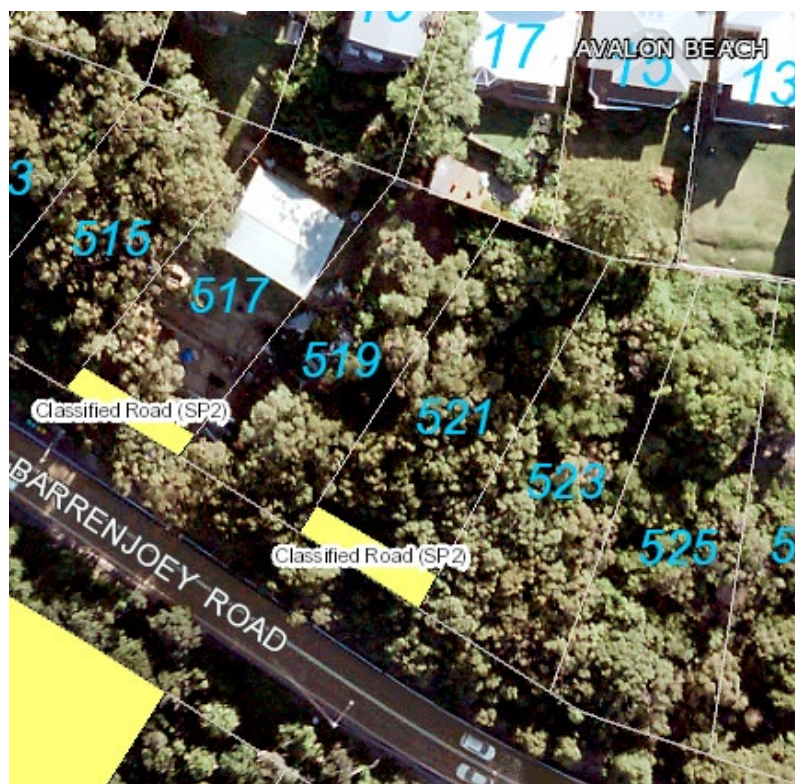


Figure 11 - SP2 Zoning on the site - required to be removed from area calculation for landscaping assessment

Variations

Provided the outcomes of this control are achieved, the following may be permitted on the landscaped proportion of the site:

- 1. impervious areas less than 1 metre in width (e.g. pathways and the like);*
- 2. for single dwellings on land zoned R2 Low Density Residential, R3 Medium Density Residential or E4 Environmental Living, up to 6% of the total site area may be provided as impervious landscape treatments providing these areas are for outdoor recreational purposes only (e.g. roofed or unroofed pergolas, paved private open space, patios, pathways and uncovered decks no higher than 1 metre above ground level (existing)).*

Comment: The proposal does not comply with the Development Control as the area of impervious landscape treatments in E4 Zoning (e.g. roofed or unroofed pergolas, paved private

open space, patios, pathways and uncovered decks) is 6% only whereas the Development has demonstrated 7.4% for “recreational landscaping” which is assuming that this is impervious.

Following removal of the SP2 Zoning per previous point, this percentage will be higher again, and likely make it further non-compliant with the development control.

The landscaping is therefore totally non-compliant and the Consent Authority should reject the proposal on this basis.

22. DCP Non-compliance – Failure to comply with Clause D3.14 – Construction, Retaining walls, terracing and undercroft areas

The proponent has not provided any explanation and / or justification of how the proposal will specifically comply with the following clauses and sub-clauses of Clause D3.14 (where clauses are shown in *italics*).

Lightweight construction and pier and beam footings should be used in environmentally sensitive areas.

In the provision of outdoor entertaining areas, preference is given to timber decks rather than cut/fill, retaining walls and/or terracing.

Comment: The proposal does not comply with the Development Control on the basis of the following

- Lightweight Construction and pier and beam footings have not been considered whatsoever – major excavation including tunnelling has been considered in all facets of the works, including vertical excavations of over 20 metres deep resulting in the removal of over 1500m³ of excavated material.
A pier and beam footing at the proposal would provide a significantly reduced impact, and excavation basis for the development. The proposal has completely disregarded this development control and simply pushed forward with construction techniques that are not suitable to the area, or the site.
- In the provision of outdoor areas, retaining walls have been included at every level of the site, which is likely as a result of the major excavation and (non-compliant) height differentials. The proposal has not considered the Development control whatsoever in the design of the proposal.

The Consent Authority should consider the non-compliances and reject the proposal on this basis.