

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1164
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Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 129 DP 16902, 521 Barrenjoey Road BILGOLA BEACH NSW 2107
Proposed Development:	Construction of a Dwelling House including a swimming pool
Zoning:	C4 Environmental Living SP2 Infrastructure
Development Permissible:	No - Zone SP2 Infrastructure Yes - Zone C4 Environmental Living
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Peter Michael Sydney Madew
Applicant:	Peter Downes

Application Lodged:	22/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	03/08/2021 to 31/08/2021
Advertised:	Not Advertised
Submissions Received:	258
Clause 4.6 Variation:	4.3 Height of buildings: 38.75 %
Recommendation:	Refusal

Estimated Cost of Works:	\$ 2,499,325.00
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EXECUTIVE SUMMARY

The application seeks consent for construction of a seven (7) level dwelling, garage and pool involving significant excavation and the removal of 28 trees.

The proposal includes work on the Barrenjoey Road reserve which is zoned SP2 a classified road. As concurrence from Transport for NSW (TfNSW) has not been granted Council does not have the power to grant development consent. In addition, the application is not supported by the following Department's within Council: Transport, Road Reserve, Development Engineer, Landscape, Bushland and Biodiversity and Heritage.

Aside from TfNSW concurrence issues the proposal includes a 38.75% breach of the height of building development standard. A clause 4.6 variation was not submitted with the original plans and Council does not have the power to grant a variation to the development standard.

The removal of 28 native canopy trees to allow the extensive footprint will have unreasonable impacts on biodiversity and the landscape character of the Bilgola Locality. The height, scale, massing and footprint of the development represents overdevelopment as expressed by the non-compliance to the built form controls (height, front setbacks, building envelope and landscape area). The proposal will have adverse impacts on the desired future character of the Bilgola Locality. Insufficient information has been submitted to address the following issues: road safety, geotechnical hazards, stormwater management and view sharing.

Revised plans were received on 19 November 2021, however, they have not been formally accepted by Council or lodged via the Planning Portal as they do not address the concurrence issues raised by TfNSW nor adequately address the other issues of non-compliance and matters raised by Council's referral departments. While the revised plans were referred to the TfNSW and all relevant Officers in Council for consideration only, this assessment report is based on the original plans.

A total of 258 submissions were received which raise issues in respect of road safety (vehicular, pedestrian and cyclist), construction impacts, access issues, parking, congestion and impacts on emergency services using Barrenjoey Road, excessive excavation and geotechnical issues including landslip, overdevelopment / build form (excessive height, footprint, bulk and massing) including visual impact on the scenic quality of the area and impact on neighbouring residential amenity including view loss and privacy issues, removal of 28 native canopy trees, insufficient offset planting and impacts on biodiversity, insufficient information and errors in documentation. These matters are addressed in this report.

Based on the detailed assessment contained in this report, it is recommended that the application be refused.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for excavation and the construction of a seven (7) level dwelling accessed via Barrenjoey Road via a horizontal tunnel and vertical lift shafts / stairs excavated into the slope. In detail, the proposal includes:

Road Reserve

- Turntable 6m in diameter.
- Retaining walls which vary in height (max height 5.5m to the west and 3m to the east)
- New concrete driveway.

Underground Garage / store

- Ground level - garage for three (3) cars with garage door, car lift, stairs and bin store.
- Level 1- store with three (3) projecting skylights above.
- Masonry frontage to garage door and numbering.
- Side fences along the upper level of the garage with associated planter boxes and stainless-

steel handrail along the southern edge.

*The garage / store and fences are partially located within the road reserve.

Horizontal Access Tunnel

- A 3m wide 27.6m long horizontal access tunnel connected at ground level from the garage. The horizontal tunnel provides connections to two sets of lifts and two sets of stairs to access the dwelling. The northern lift shaft is 30.2m in height and the southern lift shaft is 9.2m in height.

Offices and studio

- Office 1 (level 1) and office 2 (level 2) with associated toilet and shower, lift and stairs and balcony and studio with toilet and shower (level 3).

Level 3 (main dwelling)

- Family room with bathroom.
- Lift and stairs.
- Plant room and store.

Level 4

- Four (4) bedrooms.
- Two (2) bathrooms.
- Laundry.
- Lift and stair access.
- Balconies.

Level 5

- Open plan lounge and dining.
- North and south facing balconies.
- Lift and stair access.

Level 6

- Bedroom ensuite.
- South facing balcony.
- Lift and stair access.

Level 7

- Pool and deck.
- Lift and stair access.

Materials

- Metal cladding, aluminium doors and windows, stone cladding.

Landscaping

- Removal of 28 mature trees and replacement planting.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater Local Environmental Plan 2014 - Zone SP2 Infrastructure

Pittwater Local Environmental Plan 2014 - Zone C4 Environmental Living

Pittwater Local Environmental Plan 2014 - 4.6 Exceptions to development standards

Pittwater Local Environmental Plan 2014 - 5.1A Development on land intended to be acquired for public purpose

Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation

Pittwater Local Environmental Plan 2014 - 7.2 Earthworks

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.7 Geotechnical hazards

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A4.3 Bilgola Locality

Pittwater 21 Development Control Plan - B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites

Pittwater 21 Development Control Plan - B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor

Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation

Pittwater 21 Development Control Plan - B5.15 Stormwater

Pittwater 21 Development Control Plan - B6.1 Access driveways and Works on the Public Road Reserve

Pittwater 21 Development Control Plan - B6.2 Internal Driveways

Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management

Pittwater 21 Development Control Plan - B8.1 Construction and Demolition - Excavation and Landfill

Pittwater 21 Development Control Plan - B8.5 Construction and Demolition - Works in the Public

Domain

- Pittwater 21 Development Control Plan - B8.6 Construction and Demolition - Traffic Management Plan
- Pittwater 21 Development Control Plan - C1.1 Landscaping
- Pittwater 21 Development Control Plan - C1.3 View Sharing
- Pittwater 21 Development Control Plan - C1.5 Visual Privacy
- Pittwater 21 Development Control Plan - C1.14 Separately Accessible Structures
- Pittwater 21 Development Control Plan - C1.24 Public Road Reserve - Landscaping and Infrastructure
- Pittwater 21 Development Control Plan - D3.1 Character as viewed from a public place
- Pittwater 21 Development Control Plan - D3.6 Front building line
- Pittwater 21 Development Control Plan - D3.9 Building envelope
- Pittwater 21 Development Control Plan - D3.11 Landscaped Area - Environmentally Sensitive Land
- Pittwater 21 Development Control Plan - D3.13 Fences - Flora and Fauna Conservation Areas
- Pittwater 21 Development Control Plan - D3.15 Scenic Protection Category One Areas

SITE DESCRIPTION

Property Description:	Lot 129 DP 16902, 521 Barrenjoey Road BILGOLA BEACH NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Barrenjoey Road and is legally known as Lot 129 in Deposited Plan (DP) 16902, No. 521 Barrenjoey Road, Bilgola Beach.</p> <p>The site is regular in shape with a frontage of 17m along Barrenjoey Road and a depth of 44.2m to the west and 47.1m to the east. The site has a surveyed area of 689m² with a slope of approximately 43% from the higher northern boundary (rear) to the lower southern boundary (Barrenjoey Road). The site is vacant and heavily vegetated with no formal means of vehicular or pedestrian access. The site is located along a stretch of Barrenjoey Road commonly referred to as “the bends”.</p> <p>The site has a split zoning, comprising E4 Environmental Living and SP2 Classified Road under the provisions of the Pittwater LEP 2014. The division of the two zonings occurs at a distance approximately 8.2m from the property boundary fronting Barrenjoey Road. The works proposed on private property are entirely reliant upon works within the road reserve zoned SP2 Classified Road (Barrenjoey Road). The road reserve varies in width from 3.8m to 8m and does not contain any existing structures.</p> <p>The site is highly constrained by its slope and is mapped as Geotechnical Hazard 1. It is densely vegetated Bushfire Prone land with biodiversity value, including its protection as the Bilgola Flora and Fauna Category 1/2 Area.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>The land to the immediate east, west and south (across the road) comprises dense bushland. The land to the</p>

immediate north is characterised by one and two storey detached dwellings accessed via Plateau Road. Bilgola beach is located approximately 290m to the east at a significantly lower level.

Map:



SITE HISTORY

Development Application N0335/11

Development Application N0335/11 was approved on 1 July 2013 for excavation and earthworks, construction of a new driveway, double garage, access stairs and installation of a turntable. The consent was not activated and therefore has since lapsed.

Pre-lodgment meeting PLM/2020/0204

On 10 September 2020 a pre-lodgement meeting (PLM) took place to discuss the redevelopment of the site for a dwelling, garage and secondary dwelling. The issues raised at the PLM related to concerns about the excessive height, visual impact, loss of high value vegetation and impacts on biodiversity. The applicant was advised that concurrence would be required from Transport for NSW (TfNSW) and it was recommended that consultation with TfNSW take place before lodging any future DA.

APPLICATION HISTORY

On 26 October 2021, a letter was sent to the applicant raising concerns about the building height, bulk and scale, the store above the garage, the extent of excavation and tree removal and resulting impacts on biodiversity, transport issues, including TfNSW concurrence issues, engineering and stormwater issues and heritage issues.

On 17 September 2021, an amended Landscape Plan and Stormwater Plan was submitted.

On 1 November 2021, a further amended Stormwater Management Plan was submitted in addition to an Engineering letter.

On 19 November 2021, the applicant submitted revised plans and addition information. The revised plans included the following:

- Reduce the height of the top floor by 500mm.
- Delete store above garage.
- Delete front and side boundary fences.
- Delete the lower portion of the rear lift and access tunnel which reduces the extent of excavation.
- Delete the turntable from the road reserve.
- Additional tree planting proposed.
- All exposed walls to frontage be clad in sandstone.

It is Council's opinion that the revised plans and documentation submitted on 19 November 2021 fail to satisfactorily address the fundamental issues raised with the proposal. Notwithstanding, the revised plans were referred to the TfNSW and all relevant Officers in Council for comparative analysis only and this assessment report is based on the original plans dated 17 June 2021.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. Should the application be supported, these matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. A letter was issue raising issues with the proposal in</p>

Section 4.15 Matters for Consideration	Comments
	<p>relation to the following issues: traffic, excavation, building height non-compliance, biodiversity, engineering and stormwater, view loss and heritage impacts. Additional information and concept plans have been submitted, however, as the information and plans do not address the fundamental TfNSW concurrence issues they have not been formally accepted (refer to history section of this report).</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. Should the application be approved this matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). Should the application be approved this matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater LEP and Pittwater 21 Development Control Plan section in this report. It has been concluded that the proposal will have unreasonable impact on the environment as a result of the significant loss of native canopy trees and biodiversity issues. Insufficient information has been submitted to demonstrate that the construction of the development will not have adverse impacts on road safety and geotechnical issues.</p> <p>(ii) Social Impact The proposed development will have a detrimental social impact in the locality considering the character of the proposal in terms of traffic and road safety issues, potential view loss, visual impacts on the character of the area and impacts on the environmental values of the site including biodiversity.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for</p>	<p>The site is considered unsuitable for the proposed development.</p>

Section 4.15 Matters for Consideration	Comments
the development	
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	This assessment has found the proposal to be contrary to the relevant requirement(s) of the built form controls, including the building height development standard and the building envelope control. The height, bulk and scale of the development will have unreasonable visual impacts on the scenic quality of the area and potential view loss issues which have not been fully addressed by the applicant. The proposal includes work within the road reserve and insufficient information has been submitted to address road safety issues which has resulted in the refusal of concurrence from TfNSW. The proposal will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectation's of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

Roads Act 1993

The development application before Council has been put forward in respect to all works, both on private property and within the road reserve.

That part of the application located on private property is assessed under Part 4 of the Environmental Planning and Assessment Act 1979. The works proposed within the road reservation will be considered pursuant to the Roads Act 1993 and Part 5 of the Environmental Planning and Assessment Act 1979. Given the extent of the works with the road reservation, and the reliance upon these works to enable the works proposed on private property, it is considered appropriate to consider the cumulative impacts of the entire proposal as part of this assessment.

Whilst the assessment of the application considers the entire proposal in accordance with the Environmental Planning and Assessment Act, any consent issued is technically only in respect to works on private property. Consent pursuant to Section 138 of the Roads Act 1993 will still be required, should this application be approved a condition of consent can be includes requiring approval under Section 139 of the Roads Act.

Section 138 of the Roads Act 1993 requires concurrence from TfNSW for any of the following works:

- (a) erect a structure or carry out a work in, on or over a public road, or*
- (b) dig up or disturb the surface of a public road, or*
- (c) remove or interfere with a structure, work or tree on a public road, or*
- (d) pump water into a public road from any land adjoining the road, or*
- (e) connect a road (whether public or private) to a classified road.*

In respect to Barrenjoey Road, Northern Beaches Council is the Roads Authority. However, pursuant to Clause 138(2) of the Roads Act 1993, concurrence from Transport for NSW is required as Barrenjoey Road is a classified road.

Section 138 (2) of the Roads Act 1993 states that:

"A consent may not be given with respect to a classified road except with the concurrence of TfNSW"

Section 4.47(4) of the Environmental Planning and Assessment Act 197 states:

If the approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.

The application was referred to TfNSW who have been unable to provide concurrence for the reasons elaborated upon in the External Referral section of this report. It is noted that the revised plans dated 19 November 2021 do not address all the issues raised in the TfNSW referral response, as such the revised plans have not been formally accepted. In the absence of concurrence from TfNSW Council cannot approve the application.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specification's and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application prepared by Bushfire Planning Service, dated 2 June 2021. The report stated that the bushfire attack level of the site is "BAL-Flame Zone" with the eastern aspect of the site the most potentially hazardous aspect due to the effective slope, potential run of fire and prevailing fire weather in the area. The report recommends measures to comply with Planning for Bush Fire Protection, including an Asset Protection Zone (APZ).

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions which are to be included in a consent should this application be approved.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 03/08/2021 to 31/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 258 submission/s from:

Name:	Address:
Mr John Cuthbert Geeves	107 Avalon Parade AVALON BEACH NSW 2107
Ms Leigh McGaghey	Address Unknown
Ms Prudence Abby Rydstrand	1100 Barrenjoey Road PALM BEACH NSW 2108
Mr Dayne Peter McGowan	89 Grandview Drive NEWPORT NSW 2106
Mrs Giles Richard Stoddard	32 Elouera Road AVALON BEACH NSW 2107
Katherine Clarke	63 Palmgrove Road AVALON BEACH NSW 2107

Name:	Address:
Mrs Zena Debra Carter	5 Lewis Street AVALON BEACH NSW 2107
Mr Thomas Matthew McGee	55 Careel Head Road AVALON BEACH NSW 2107
Anonymous	N/A
Ms Patricia Elizabeth Thomson	14 Plateau Road AVALON BEACH NSW 2107
Mrs Elizabeth Jane Collis	49 Chisholm Avenue AVALON BEACH NSW 2107
Ms Linda Anita Jansen	4 Mariposa Road BILGOLA PLATEAU NSW 2107
Mr Jack Franken	25 Wollombi Road BILGOLA PLATEAU NSW 2107
Simone Blake	6 Patrick Street AVALON BEACH NSW 2107
Mr Matthew Stuart Francis	243 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Tessa Mullen	Address Unknown
Mantas Paulius Juska	45 Daly Street BILGOLA PLATEAU NSW 2107
Mrs Pauline Marie Allan	8 Coral Close AVALON BEACH NSW 2107
Michele Tick	14 Plateau Road AVALON BEACH NSW 2107
Mrs Rebbecca Joy Stewart	11 Kanimbla Crescent BILGOLA PLATEAU NSW 2107
Jain Beverly Parsons	53 Kanimbla Crescent BILGOLA PLATEAU NSW 2107
Ms Jennifer Nathalie Cuthbertson	4 Coonanga Road AVALON BEACH NSW 2107
Mrs Amber Corin Marsh	104 Plateau Road BILGOLA PLATEAU NSW 2107
Mr Christopher Pearce	6 Riviera Avenue AVALON BEACH NSW 2107
Mr Bruce Cornwall	Address Unknown
Mrs Lisa Anne Evans	23 The Circle BILGOLA PLATEAU NSW 2107
Mr Michael Anthony Henry	59 Dress Circle Road AVALON BEACH NSW 2107
Mrs Danielle Louise Nash	3 Howell Close NEWPORT NSW 2106
Mr James Moulang	294 Sackville Street CANLEY VALE NSW 2166
Mr Kenneth James Watkins	5 Totala Place ELANORA HEIGHTS NSW 2101
Mr Gareth Jones	PO Box 60 AVALON BEACH NSW 2107
Mr Matthew Robert Leith	32 The Circle BILGOLA PLATEAU NSW 2107
Mrs Nicola Donlan	21 Mirrabooka Street BILGOLA PLATEAU NSW 2107
Toni-Lou Howard	123 Wallumatta Road NEWPORT NSW 2106
Mr Simon Alastair Brian Fitch	54 Elvina Avenue AVALON BEACH NSW 2107
Mr Peter Ronald Coltman	4 D Dress Circle Road AVALON BEACH NSW 2107
Mr Geoff Gorick Mrs Mary Therese Gorick	19 Plateau Road AVALON BEACH NSW 2107
Ms Amelia Jane Berczelly	40 George Street AVALON BEACH NSW 2107
Ms Leonie Desree Leonard	636 Barrenjoey Road AVALON BEACH NSW 2107
Karina Hammond	22 Dolphin Crescent AVALON BEACH NSW 2107
Mrs Christina Mary Hutchinson	79 Dolphin Crescent AVALON BEACH NSW 2107
Mr Andrew James Bracher	15 Lovering Place NEWPORT NSW 2106
Mr Mark Francis Horton	2 Elwyn Close MONA VALE NSW 2103

Name:	Address:
Mr David John Goudie	45 Careel Head Road AVALON BEACH NSW 2107
Cal Van	Address Unknown
Mr Michael Carmody	12 Victoria Parade MANLY NSW 2095
V King	Address Unknown
Mr Greg John Hanley	9 The Serpentine BILGOLA BEACH NSW 2107
Mrs Stephanie Rene Bicknell	122 Avalon Parade AVALON BEACH NSW 2107
Stubbs Cruickshank	Level 4 1 Chandos Street ST LEONARDS NSW 2065
Anna Kramer-Higgins	32 Careel Head Road AVALON BEACH NSW 2107
Mrs Susan Christine Martin	19 Hudson Parade AVALON BEACH NSW 2107
Mrs Gabrielle Anne Angles	12 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Mrs Anne Coltman	4 D Dress Circle Road AVALON BEACH NSW 2107
Mrs Susannah Lisa Goudie	45 Careel Head Road AVALON BEACH NSW 2107
Mr Colin McKenzie Thomson	15 Plateau Road AVALON BEACH NSW 2107
Mr Ian Keith Barton Storey	1 A Nullaburra Road NEWPORT NSW 2106
Mr Vincent Jeremiah Carmody	7 Plateau Road AVALON BEACH NSW 2107
Ms Rosalene Dorothy Collison Clements	42 Plateau Road BILGOLA PLATEAU NSW 2107
Mrs Deborah Elizabeth Denman	8 Urara Road AVALON BEACH NSW 2107
Mrs Julia Fiona Blenkhorn	9 Plateau Road AVALON BEACH NSW 2107
Mr Philip John Clements	42 Plateau Road BILGOLA PLATEAU NSW 2107
Mr Matthew Philip Lumsdaine	16 Riviera Avenue AVALON BEACH NSW 2107
Mr Simon John Terry	12 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Richard Evelyn Woolveridge	63 Elvina Avenue AVALON BEACH NSW 2107
Mrs Amanda Helen Woolveridge	63 Elvina Avenue AVALON BEACH NSW 2107
Mrs Jennifer Anne Reddan	22 Kevin Avenue AVALON BEACH NSW 2107
Ms Clare Ann Strickland	13 Georgina Avenue ELANORA HEIGHTS NSW 2101
Mrs Denise Joy Leith	32 The Circle BILGOLA PLATEAU NSW 2107
Dave Smith	Address Unknown
Mr Robert Harley	15 a Chisholm Avenue AVALON BEACH NSW 2107
Ms Christine Anne Noldus	10 Burrawong Road AVALON BEACH NSW 2107
Mrs Angela Pearce	30 Allenby Park Parade ALLAMBIE HEIGHTS NSW 2100
Glenda Anne Paradine	60 George Street AVALON BEACH NSW 2107
Lynne Whitaker	Address Unknown
Mr David Reginald Smith	5 Plateau Road AVALON BEACH NSW 2107
Mr Charlie Class	52 Elaine Avenue AVALON BEACH NSW 2107
Sam Potter	Address Unknown
Mr Ralph John Lancaster Evans	135 Pacific Road PALM BEACH NSW 2108

Name:	Address:
Nicholas Gorick	Address Unknown
Mr David Lorne Macdonald Armstrong	50 George Street AVALON BEACH NSW 2107
Mr Steven Bevan Jones	5 The Appian Way AVALON BEACH NSW 2107
Mrs Nicole Erin Tognetti	3 Cannes Drive AVALON BEACH NSW 2107
Mrs Christine Joy Brown	120 Whale Beach Road WHALE BEACH NSW 2107
Mr Stephen John Riley	234 Hudson Parade CLAREVILLE NSW 2107
Mrs Deborah Louise Kaldor	122 Palmgrove Road AVALON BEACH NSW 2107
Mr Christopher John Power	55 Riviera Avenue AVALON BEACH NSW 2107
Ms Maryam Hughes	10 The Serpentine BILGOLA BEACH NSW 2107
Mrs Susan Nicholson	3 Buyuma Place AVALON BEACH NSW 2107
Ms Sally Louise Carmody	11 / 42 - 44 Old Barrenjoey Road AVALON BEACH NSW 2107
Ms Fiona Jane Shipman	21 York Terrace BILGOLA PLATEAU NSW 2107
Mrs Sandra Kay Mander	11 Plateau Road AVALON BEACH NSW 2107
Sonny Vandevelde	6 Joseph Street AVALON BEACH NSW 2107
Mrs Lucy Emma Creegan	77 Park Avenue AVALON BEACH NSW 2107
Gregory Ross	Address Unknown
Mrs Kerry Anne Paramor	11 Bay View Street MCMAHONS POINT NSW 2060
Mr Kevin Lovell Donohoe	2 / 64 - 66 Avalon Parade AVALON BEACH NSW 2107
Mrs Mary Agnes Fisher	77 Chisholm Avenue AVALON BEACH NSW 2107
Sarah-Jane Bailey	Address Unknown
Mrs Julie Robyn King	12 Ascot Road KENTHURST NSW 2156
Ms Anna Maria Monticelli	11 Ebor Road PALM BEACH NSW 2108
Ms Dale Christine Kentwell	22 Coonanga Road AVALON BEACH NSW 2107
Mr John William Ogden	26 A Plateau Road AVALON BEACH NSW 2107
Mrs Rebeccah Emily Vick	22 Riverview Road AVALON BEACH NSW 2107
Ms Georgia Ann Mansur	5 C Iluka Road PALM BEACH NSW 2108
Mrs Carmel Mary Johnson	1 Catalpa Avenue AVALON BEACH NSW 2107
Miss Nicola Suzanne Michael	5 Bulkara Road BELLEVUE HILL NSW 2023
Mrs Jennifer Anne McDowell	14 Birubi Crescent BILGOLA PLATEAU NSW 2107
Mr Martin Joseph Shannon	9 The Outlook BILGOLA PLATEAU NSW 2107
Mr Matthew James Healey	PO Box 73 AVALON BEACH NSW 2107
Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Ashlie Casey	1 Westmoreland Avenue COLLAROY NSW 2097
Mrs Annabel Selby-Jones	48 Marine Parade AVALON BEACH NSW 2107
Mr Phillip Gregory Jones	48 Marine Parade AVALON BEACH NSW 2107
Mr John Warburton	106 Whale Beach Road AVALON BEACH NSW 2107
Mrs Karin Diana Turner	26 Marine Parade AVALON BEACH NSW 2107
Mr David Blyth Stubbs Mrs Helen Stubbs	17 Plateau Road AVALON BEACH NSW 2107
Mrs Prudence Wawn	47 Riverview Road AVALON BEACH NSW 2107

Name:	Address:
Phil Richards	248 Hudson Parade CLAREVILLE NSW 2107
Mrs Helen Olivia Richards	248 Hudson Parade CLAREVILLE NSW 2107
Mrs Elizabeth Ann Thorn	64 Roseville Avenue ROSEVILLE NSW 2069
Ms Kathryn Jeanne Franco	7 Crane Lodge Place PALM BEACH NSW 2108
Mr Anthony Craig Boaden	34 Trappers Way AVALON BEACH NSW 2107
Mrs Linda Pamela Baxter Young	50 Park Avenue AVALON BEACH NSW 2107
Mrs Karman Lorraine Whitford	59 Plateau Road AVALON BEACH NSW 2107
Ms Elisabeth Bartlett Powis	PO Box 336 AVALON BEACH NSW 2107
Mrs Shannon Lee Kristen Murray	9 Catalina Crescent AVALON BEACH NSW 2107
Mrs Dorothy Elizabeth Saxon-Williams	3 The Outlook BILGOLA PLATEAU NSW 2107
Mr Richard Ian McEvoy	22 The Outlook BILGOLA PLATEAU NSW 2107
Penny Selby	120 B Cabarita Road AVALON BEACH NSW 2107
Ms Deborah Jane Collins	Po Box 838 AVALON BEACH NSW 2107
Ms Francesca Isabella Tanti	242 Hudson Parade CLAREVILLE NSW 2107
Mr Nicholas Kenneth Martin Allen	20 Bishops Avenue RANDWICK NSW 2031
Ms Lisa Nicole Tyndall	2 Argyle Street BILGOLA PLATEAU NSW 2107
Mrs Michelle Louise Newman	61 Palmgrove Road AVALON BEACH NSW 2107
Mr Peter Matthew Morrall	27 Central Road AVALON BEACH NSW 2107
Harrison Pickering	12 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Mrs Anna Louise Rudd	2 Bilkurra Avenue BILGOLA PLATEAU NSW 2107
Ms Andrea McCormick	50 George Street AVALON BEACH NSW 2107
Ms Camilla Lynn Mok	14 / 1580 Pittwater Road MONA VALE NSW 2103
Mrs Sue Marsh	6 The Pinnacle BILGOLA PLATEAU NSW 2107
Mr Ian Clayton Lee	18 Wollombi Road BILGOLA PLATEAU NSW 2107
Mrs Louise Emily Hutchinson	7 Eurobin Avenue MANLY NSW 2095
Mr William James Goddard	4 Mariposa Road BILGOLA PLATEAU NSW 2107
Ms Lezli An Ryan	40 Argyle Street BILGOLA PLATEAU NSW 2107
Ms Sheila Frances Rose	310 Whale Beach Road PALM BEACH NSW 2108
Ms Susan Patricia Flaye	8 Burrendong Place AVALON BEACH NSW 2107
Mrs Sarah Carrington Yates	1078 Barrenjoey Road PALM BEACH NSW 2108
Ms Jill Patricia Morrison-Churchill	C/- Vaughan Milligan Development Consulting Pty Ltd Po Box 49 NEWPORT NSW 2106
Patrick Noble	18 Elaine Avenue AVALON BEACH NSW 2107
Ms Danielle Janice Bressington	13 York Terrace BILGOLA PLATEAU NSW 2107
Clare Julia Crawford	8 Gunjulla Place AVALON BEACH NSW 2107
Mr Nicolas Leslie Coleman	12 Bilwara Avenue BILGOLA PLATEAU NSW 2107

Name:	Address:
Ms Michelle Risa Robinson	11 Whale Beach Road AVALON BEACH NSW 2107
Mrs Jessica Dalziel	16 Dress Circle Road AVALON BEACH NSW 2107
Monique La Forgia	293 Hudson Parade CLAREVILLE NSW 2107
Miss Vanita Pamela Ogden	26 Chisholm Avenue AVALON BEACH NSW 2107
Ms Vicki Louise Crosby	53 Queens Avenue AVALON BEACH NSW 2107
Ms Miranda Maragret Korzy	80 Wandeen Road CLAREVILLE NSW 2107
Ms Lyn Meredith Huxham	PO Box 202/ AVALON BEACH NSW 2107
Mr Norman Nolan	63 The Serpentine BILGOLA BEACH NSW 2107
Ms Nicola Hughes	129 McCarrs Creek Road CHURCH POINT NSW 2105
Mr Jonathan Harvey Gertler	18 Dress Circle Road AVALON BEACH NSW 2107
Fred Fokker	Address Unknown
Skye Beckett	3 Sanctuary Avenue AVALON BEACH NSW 2107
Kristen Duross	18 Beaconsfield Street NEWPORT NSW 2106
Mrs Louisa Leigh Hart	30 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Elizabeth Williams	1 Surf Side Avenue AVALON BEACH NSW 2107
Ms Lesley Garrett	25 Palm Beach Road PALM BEACH NSW 2108
Ms Prunella Karin Noonan	30 Plateau Road AVALON BEACH NSW 2107
John Herro	1 Bilgola Terrace BILGOLA BEACH NSW 2107
Mrs Margot Helena Paul	43 Patrick Street AVALON BEACH NSW 2107
Ms Jocelyn Margaret Sparks	3 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr John Douglas Moore	6 Gunjulla Place AVALON BEACH NSW 2107
Poppy Roxburgh	488 Barrenjoey Road BILGOLA PLATEAU NSW 2107
Mrs Chantal Cecile Huberte Hobson	14 Beauty Drive WHALE BEACH NSW 2107
Mrs Annabel Jane Fieldhouse	36 Hilltop Road AVALON BEACH NSW 2107
Mr Brian William Hobson	14 Beauty Drive WHALE BEACH NSW 2107
Ms Joanna Dalby-Ball	39 Daly Street BILGOLA PLATEAU NSW 2107
Mr Jean-Pierre Paul	43 Patrick Street AVALON BEACH NSW 2107
Mr Andrew Charles Robert Baldey	12 Beauty Drive WHALE BEACH NSW 2107
Ms Cristen Elizabeth Giles	23 Plateau Road AVALON BEACH NSW 2107
Mrs Marita Ann Macrae	24 Catalina Crescent AVALON BEACH NSW 2107
Douglas James Wright	151 Hudson Parade CLAREVILLE NSW 2107
Mr David Ashley Hammond	544 Barrenjoey Road AVALON BEACH NSW 2107
Mrs Dorothy Margaret Mary Kamaker	158 A Whale Beach Road WHALE BEACH NSW 2107
Chantal Harrison	7 Daly Street BILGOLA PLATEAU NSW 2107
Mr Janis Ivars Polfanders	8 Dress Circle Road AVALON BEACH NSW 2107
Mr Nicholas Hugh Hart	30 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Tyson Rose	38 Mariposa Road BILGOLA PLATEAU NSW 2107
Mrs Shae Claverie	37 York Terrace BILGOLA PLATEAU NSW 2107

Name:	Address:
The Palm Beach & Whale Beach Association Inc	Palm Beach/Whale Beach Areas AB Dummy For Daba Notification WARRIEWOOD NSW 2102
Richard West	87 Florida Road PALM BEACH NSW 2108
Mr Trevor James Hannah	180 B Riverview Road AVALON BEACH NSW 2107
Mr Philip Edward John Crenigan	19 The Serpentine BILGOLA BEACH NSW 2107
Ms Diana Tebbutt	103 Riverview Road AVALON BEACH NSW 2107
Mr Richard Maxwell Osborn	132 / 79 - 91 Macpherson Street WARRIEWOOD NSW 2102
Mr Paul Francis Williams	26 Monterey Road BILGOLA PLATEAU NSW 2107
Mr Keith James Woodward	182 Riverview Road AVALON BEACH NSW 2107
Newport Residents Association	PO Box 1180 NEWPORT BEACH NSW 2106
Ms Donna Louise O'Keefe	52 Argyle Street BILGOLA PLATEAU NSW 2107
Mr John Yates Williams	12 / 15 Old Barrenjoey Road AVALON BEACH NSW 2107
Malcolm Henry Saunders	57 Riviera Avenue AVALON BEACH NSW 2107
Avalon Preservation Trust Incorporated as Avalon Preservation Association	24 Catalina Crescent AVALON BEACH NSW 2107
David William Broadbridge	Po Box 864 MONA VALE NSW 1660
Mrs Kristina Czepl	514 Barrenjoey Road AVALON BEACH NSW 2107
Mrs Leonor Isabel Gouldthorpe	2 Surf Road PALM BEACH NSW 2108
Mr Robert Donald Mackinnon	16 Norma Road PALM BEACH NSW 2108
Mr Jonathon Pratten	4 Malo Road WHALE BEACH NSW 2107
Ms Natasha Perri Goulden	Po Box 876 EDGECLIFF NSW 2027
Mrs Karen Lorraine Alchin	49 Riverview Road AVALON BEACH NSW 2107
Ms Emma Gilmour	2 Bilgola Terrace BILGOLA BEACH NSW 2107
Mrs Debbie Anne Banham	29 Binburra Avenue AVALON BEACH NSW 2107
Mr Mark Ernest Alchin	49 Riverview Road AVALON BEACH NSW 2107
Bilgola Beach Residents Association Inc	7 Bilgola Avenue BILGOLA BEACH NSW 2107
Mr Robert John Kellick	11 Elvina Avenue AVALON BEACH NSW 2107
Mrs Penelope Ferguson	48 Kempbridge Avenue SEAFORTH NSW 2092
Ms Barbara Anne Webb	4 / 81 - 83 Avalon Parade AVALON BEACH NSW 2107
Rosemary Edgell Bush	19 Thyra Road PALM BEACH NSW 2108
Ms Helen Margaret Rennie	3 Marine Parade AVALON BEACH NSW 2107
Mrs Deborah Margaret Gartrell	2 Yallumba Close FORESTVILLE NSW 2087
Kevin Wylid	522 Barrenjoey Road AVALON BEACH NSW 2107
Clareville & Bilgola Plateau Residents Association	PO Box 292 AVALON BEACH NSW 2107
Catherine Mary Kerr	1 A Paradise Avenue AVALON BEACH NSW 2107

Name:	Address:
Mr Nicholas Edward Ferguson	40 Ellery Parade SEAFORTH NSW 2092
Mr Richard Russell Mason	3 / 8 - 12 Darley Street East MONA VALE NSW 2103
Mr Peter James Stutchbury	11 Surf Side Avenue AVALON BEACH NSW 2107
Suzi Fearon	15 Crane Lodge Place PALM BEACH NSW 2108
Mr David Laurence Nairne Fearon	15 Crane Lodge Place PALM BEACH NSW 2108
Pittwater Natural Heritage Association	PO Box 187 AVALON BEACH NSW 2107
Mr Mark William Badger	1 Milga Road AVALON BEACH NSW 2107
Mr Darren John Flynn	5 George Street AVALON BEACH NSW 2107
Mrs Suzanne Michelle Daly	95 Cheryl Crescent NEWPORT NSW 2106
Tony Sedgwick	Address Unknown
Ms Jill Luise Stephenson	1/10-14 Elgin Street WOOLWICH NSW 2110
Mr Christopher Newton Daly	95 Cheryl Crescent NEWPORT NSW 2106
Ms Rochelle Elizabeth Devries	6 York Terrace BILGOLA PLATEAU NSW 2107
Ms Julie Irene Malcolm	6 Careel Head Road AVALON BEACH NSW 2107
Mrs Susan Joy Myers	1 A Tasman Road AVALON BEACH NSW 2107
Mr Stuart Mackenzie Walker	28 Riviera Avenue AVALON BEACH NSW 2107
Graham Carruthers	32 Mirrabooka Street BILGOLA PLATEAU NSW 2107
Mrs Amanda Jane Louise Champion	PO Box 373 AVALON BEACH NSW 2107
Mrs Louise Helen Wylie Alston	2 / 85 - 87 Avalon Parade AVALON BEACH NSW 2107
Ms Judith Mary Davie	22 Hilltop Road AVALON BEACH NSW 2107
Mrs Helen Jean Mackay	53 Hilltop Road AVALON BEACH NSW 2107
Ms Anja Lisa Taylor	66 Whale Beach Road AVALON BEACH NSW 2107
Dr Rohan Thomas Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107
Mr Martin Christopher Joy	22 Hilltop Road AVALON BEACH NSW 2107
Mrs Glenda Kathleen Killingsworth	6 Bilgola Terrace BILGOLA BEACH NSW 2107
Mr Anthony Robert Milburn	38 Queens Avenue AVALON BEACH NSW 2107
Mr Mark Graham Pearsall	10 Beauty Drive WHALE BEACH NSW 2107
Tracy Naphthali	10 Beauty Drive WHALE BEACH NSW 2107
Ms Jacinta Newcombe	101 Whale Beach Road AVALON BEACH NSW 2107
H Naphthali	10 Beauty Drive WHALE BEACH NSW 2107
Lucy Vader	12 Idaline Street COLLAROY PLATEAU NSW 2097
Mr Michael Francis Green	21 Bareena Road AVALON BEACH NSW 2107
Mr Dennis Leslie Wright	12 Park Avenue AVALON BEACH NSW 2107
Mr David Richard Ravenscroft	100 Binburra Avenue AVALON BEACH NSW 2107

The following issues were raised in the submissions and each have been addressed below:

- **Traffic congestion/ parking/vehicle access and safety concerns and encroachment on public land**
- **Excavation/landslip/runoff**
- **Environmental concerns tree removal and biodiversity impacts.**
- **Overdevelopment / built form concerns / non-compliance with the built form controls**
- **The development is contrary to E4 Environmental Living zone and SP2 Infrastructure zone**
- **Owners consent**
- **Visual impact**
- **View loss**
- **Privacy (acoustic and visual) impacts**
- **Construction impacts**
- **Mixed residential/commercial uses involving multiple offices or dual occupancy**
- **Insufficient notification**
- **Cost summary**

The matters raised within the submissions are addressed as follows:

- **Traffic congestion/ parking/vehicle access and safety concerns and encroachment on public land**

Concerns are raised regarding significant traffic congestion / delays during the construction phase and in the long-term including the potential obstruction of access for emergency services. Impacts on access to other areas of the northern suburbs given that Barrenjoey Road is the principal access point to these areas to the north of Newport. Vehicular, pedestrian, cyclists, and public transport (buses) road safety concerns given the location of the site on a blind bend in the road. A recent fatal accident caused the road to be closed for a considerable length of time. Insufficient traffic management plan which presents a road safety issue. Sight lines do not meet the required standards. No parking for visitors or for construction workers and no safe pedestrian access. Inadequate planning for services such as garbage collection and post deliveries. The traffic management plan is misleading and uninformative. Trucks, cranes and excavators cannot access the site without impacting on access along Barrenjoey road. Damage to the fragile public road caused by heavy equipment and runoff from the site. Encroachment on public land (turntable, driveway, retaining walls and letterbox) which is not supported by T.NSW

Comment:

The site is located near the bends on Barrenjoey Road and insufficient information has been submitted to demonstrate that the proposal will not impact on road safety particularly during construction. The proposal includes work located within the road reserve which is zoned SP2 a classified road. TfNSW have not issued concurrence and Council does not have the power to grant development consent. Refer to discussion from TfNSW in the External Referral Section of this report and under the section titled Road's Act.

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

- **Excavation/landslip/runoff**

Concerns are raised regarding major excavation including 21m deep excavation for a lift shaft / and 27m long tunnel which will impact on adjoining properties and the public domain. Lack of detail in stormwater plan to managing runoff. Landslip issues with slope erosion and issues with the stability of existing dwellings. There is a history of land slippage in the area. The geotechnical report is insufficient e.g. it does not address the detrimental effect the earthworks will have on drainage patterns and soil stability, or the fact that recent landslips have occurred in front of numbers 517 and 519 Barrenjoey Rd and Barrenjoey Terrace. There is a high likelihood that the proposed excavation may have a similar impact and could lead to further landslips, with the intense vibrations from drilling into rock, destabilizing the surrounding area. The applicant has also failed to identify that the site is located in an area identified as "Geotechnical Hazard H1".

Comment:

It is agreed that the proposed excavation is significant and has the potential to impact on landslip the geotechnical report and insufficient information has been submitted to fully address the environmental issues. Refer to detailed discussion under Clause 7.2 and 7.7 of the PLEP.

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

- **Environmental concerns tree removal and biodiversity impacts.**

Concerns are raised regarding the extensive removal of trees, including native canopy trees on the subject site, the road reserve and to neighbouring properties. The arborist report said 43/53 trees have high retention value. The DA proposes to remove 28 - more than half of the trees on the property. The Pittwater Spotted Gum Forest - Endangered Ecological Community (EEC) is a forest community, it is not a few single trees. The proposal will create a gap in the otherwise contiguous strip of bushland vegetation. Impact to landscape quality and ecological network (native species). Loss of landscaped view from view corridors and the public domain (Bilgola Beach and Bilgola Bends). Concerns about the impacts on the health of the trees identified to be retained. Any surviving trees will be subject to the bushfire provisions and may require removal. Impact on biodiversity and wildlife corridors contrary to the objectives of the E4 zone. The area should be purchased and remain as natural bushland and rezoned as community land, RMS reserve or similar. The area to the south of the roundabout at Plateau Road, known as Bilgola Benda needs to be retained as a green corridor / gateway to the north. The removal of canopy trees is contrary to measures to address climate change.

Comment:

The extensive removal of 28 mature canopy native trees on the subject site and within the road reserve is not supported as it will have unreasonable negative impacts on the biodiversity of the site, the landscape character of the area and view corridors. Concerns about the health of trees retained is a valid concern given the extent of the excavation. Refer to the detailed discussion within the Internal Referral section of this report (Landscape Officer and Bushland and Biodiversity Officer). The subject site is privately owned and there are no plans to purchase it and / or re-zone the land.

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

- **Overdevelopment / built form concerns / non-compliance with the built form controls**

Concerns are raised regarding overdevelopment as expressed by the breach in the built form controls including the height limit, building envelope, setbacks and car parking requirements (the SEE refers to 4 car parking spaces the garage is for 3 cars). The excessive footprint (72.5% of the site), height, bulk and scale is out of character with the Bilgola Locality and will have a visual impact on the scenic quality of the area including the view corridors along the Bilgola bends and the Bilgola Beach. The additional height of the balustrades results in a four (4) storey building. The width of the garage is 59.6% of the frontage and will be a dominate feature which is non-compliant. Approval will set a negative precedent for future development. Inappropriate materials concrete and glass which may result in reflectivity issues.

Comment:

It is agreed that the development represents overdevelopment as expressed by the non-compliance with the built form controls including height, setbacks, envelope, landscape open space. The extensive footprint will require the removal of a significant amount of existing tree canopy which combined with the Asset Protection Zone required to address Bushfire requirements will result in a new altered landscape character. The development fails to integrate into the existing landscape and the excessive bulk, height, scale and building footprint is not consistent with the desired future character for the Bilgola area. The materials includes extensive use of glass which may have the potential to cause reflectivity issues.

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

- **The development is contrary to E4 Environmental Living zone and SP2 Infrastructure zone**

Concerns are raised that the proposal does not achieve the objectives of the E4 Environmental Living zoning and SP2 Infrastructure zone and has failed to address Clause 5.1A - Development on land intended to be acquired for public purposes of the PLEP .

Comment:

It is agreed that the proposal is inconsistent with the requirements and objectives of the E4 Environmental Living zone, the SP2 Infrastructure zone and Clause 5.1A of the LEP. Refer to the detailed discussion under each of the LEP provisions within this report.

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

- **View loss**

Concerns are raised with respect to impact on views.

Comment:

The affected properties are those to the north (rear) of the site between 17 - 25 Plateau Road. Insufficient information has been submitted to fully consider view sharing requirements and principles particularly given the 38.75% breach in the height development standard.

This issue forms a reason for refusal of the application.

- **Privacy (acoustic and visual) impacts**

Concerns are raised with respect to impact on privacy due to the roof top pool and patio being close to the adjoining rear yard and being elevated 2.4m - 3.1m above the adjoining rear yard.

Comment:

The roof top pool is located 6.7m from the rear (northern) boundary. Clause C1.5 of the PDCP requires habitable windows and areas of private open space (POS) to adjoining dwellings to be protected from direct overlooking within 9m of elevated decks and pools. The habitable windows and primary areas of POS to the dwellings to the rear exceed 9m to the pool. However, given the elevated design of the pool and the need for extensive tree removal concerns regarding privacy impacts are considered to remain valid.

This issue forms a reason for refusal of the application.

- **Construction impacts**

Concerns are raised with respect to construction impacts, noise, pollution, increased traffic and congestion, road safety issues and no parking for construction staff.

Comment:

Insufficient information has been submitted to demonstrate that the construction will not impact on road safety. There is no provision on site for construction staff to park.

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

- **Mixed residential/commercial uses involving multiple offices or dual occupancy**

Concerns are raised regarding the purpose of the development which appears to be a mixed residential / commercial uses involving multiple offices or dual occupancy.

Comment:

The office / studio is connected to the dwelling via the underground tunnel. Should the application be approved conditions should be included to ensure that the office / studio remains to be ancillary to the dwelling and not used as separate accommodation or commercial business. Refer to detailed discussion under Clause C1.14 of the PDCP.

This issue does not warrant the refusal of the application.

- **Insufficient notification**

There is no evidence of a notification sign at front of property and the notification requires to be extended.

Comment:

The applicant has submitted photographic evidence of the notification sign and the exhibition period was extended for an additional two (2) weeks on 11 August 2021.

This issue does not warrant the refusal of the application.

- **Cost summary**

Concern is raised that the cost summary is understated.

Comment:

The application is not supported therefore further information in respect of the cost of work has not been requested. Should the application be approved, a Quantity Surveyor Report should be requested to confirm the actual cost of the development.

This issue does not warrant the refusal of the application.

- **Inaccurate supporting documentation**

Concerns are raised that the supporting documents are inaccurate and erroneous.

Comment:

It is agreed that some of the supporting information lack details and insufficient information has been submitted to allow a proper assessment of all aspects of the proposal.

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

- **Access to services**

Concern is raised that the site does not have adequate access to services.

Comment:

Insufficient information has been submitted in terms of how the development will be serviced.

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

- **Owners consent**

Concern is raised that owners consent has not been provided from the two neighbours for the work outside the application site.

Comment:

Owners consent (Transport for NSW) has not been granted for the work proposed along the frontage of No. 519 and 523 Barrenjoey Road.

One submission has been received in support of the application which notes that access is good, trees are retained and the 8kl water tank is supported.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Not supported</p> <p><u>Original Response 29/07/2021</u></p> <p>The development application is for the construction of a new dwelling, pool and associated landscape works.</p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan clause E4 zone Environmental Living, and the following Pittwater 21 DCP controls (but not limited to):</p> <ul style="list-style-type: none"> - B4.22 Preservation of Trees and Bushland Vegetation. - C1.1 Landscaping. - D3 Bilgola Locality, and in particular D3.1 Character as viewed from a public place <p>The site is located in the E4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the E4 Environmental Living zone.</p> <p>The existing site is a vacant lot and contains many significant trees indicative of the original vegetation found in the locality, typical of the Pittwater and Wagstaffe Spotted Gum Forest Endangered Ecological Community. The site is in proximity to stands of Cabbage Tree Palms (<i>Livistona australis</i>) of local heritage significance with natural, aesthetic, scientific, historic and social significance for the local area, and it is determined that it is unlikely that the proposed development will have any impact on the heritage significance of this item.</p> <p>Landscape Plans are provided with the application indicating existing trees to be either retained or removed, and additional landscape planting. The frontage treatment to the site provides no adequate landscaped front setback and concerns are raised regarding the built form presentation to the streetscape and surrounds, contrary to the objectives of clause D3.1 Character as viewed from a public place. The natural landscape and slope character of this section of the Bilgola Bends is predominately dense vegetation growing in close proximity in clumps along the slopes for slope stability, and this proposal will expose a portion of the Bilgola Bends to public view and thus will be visually inconsistent with the local character, and this matter shall be addressed by Planning in terms of merit considerations, as land use zoning permits residential development.</p> <p>The Landscape Plans include retaining walling and mass planting</p>

Internal Referral Body	Comments
	<p>within the road reserve fronting the adjoining properties at 519 and 523 Barrenjoey Road, and no approval is granted for such works within the road reserve within this development application. Should the application be approved, any works within the road reserve are subject to a section 138 application and approval or otherwise.</p> <p>The scheme provides for two small trees and mass planting above the garage and store building, and one canopy tree with five smaller trees and mass planting along the rear of the property, and otherwise the scheme does not provide for any other tree replacement. The nominated <i>Rhaphiolepis</i> species shall be deleted and is not permitted to be planting to ensure no self-seeding into bushland areas, and shall be replaced with a locally native species typically found in the Pittwater and Wagstaffe Spotted Gum Forest Endangered Ecological Community.</p> <p>The Landscape Plans include planting on slab over the garage and store building with two Coast Banksia trees as well as mass planting. The soil depth planters shown in the proposal plans are inadequate to support tree planting which requires at least 1 metre soil depth, and the shown planters are only sufficient to support groundcovers and grasses. Deep soil areas are available elsewhere throughout the site to support tree planting.</p> <p>There are design improvements that are required to improve the landscape outcomes of the proposal. As the design stands, the bulk and scale is not softened by landscaping and the east elevation is a prominent visual built form. Deep soil areas are provided to the side boundary areas between the garage and store building, and the main residence. The Landscape Plans do not provide any tree planting to these areas that are able to support replacement tree planting, and it is advised that this is necessary to reduce the built form of the development. It is noted that the existing vegetation pattern of trees along this area of the locality upon steep slopes supports trees planted in clumps and thus such proposed tree planting is required to enhance the local character and slope stability.</p> <p>The proposed 400mm depth planters over the offices and studio area is to be increased in depth to be able to support mass tall shrub planting, and where possible small tree planting to soften the built form and provide a soft landscaped visual break between the garage and store building, and the main residence, that would otherwise appear as a six storeys. DCP control C1.1 Landscaping requires the following soil depths: 300mm for lawns and groundcovers, 600mm for shrubs, and 1metre for trees.</p> <p>In consideration of the above assessment of the Landscape Plans, amended plans are required to demonstrate how the proposed development will be softened by landscaping to satisfy the zone objectives of E4 Environmental Living as well as the DCP controls C1.1 and D3.1, prior to further determination of the development proposal.</p>

Internal Referral Body	Comments
	<p>A Arboricultural Impact Assessment is provided with the application, and recommends the removal of 20 native trees within the site, removal of 8 native trees from the road reserve, retention of 11 native trees within the site, and protection of existing trees within adjoining properties in proximity to the proposed works. The loss of the existing native trees nominated for removal is unavoidable with no design alternative available. Existing trees proposed for retention within the site include tree identified as Angophora costata (T10, T26, T27, T28, T31, T32, T33, T43, T44 and T44), and Eucalyptus umbra (T21).</p> <p>At this stage Landscape Referral are unable to support the application until Amended Landscape Plans are received to address the concerns raised.</p> <p>In summary, it is envisaged that the proposed development if approved will create a new and altered 'landscape character' that presents a substantial development footprint upon the site, and cannot be landscaped to integrate into the existing landscape character as use of the site for residential living is required to satisfy asset protection zone that limits tree canopy and understorey vegetation.</p> <p>The site is designated as a bushfire asset protection zone, and as such the character of the landscape fundamentally changes, as any new landscaping to the site will be required to comply with the principles of Appendix 4 and section 3.7 of Planning for Bush Fire Protection 2019. Much of this includes isolating tree canopies, increased tree separation, and reduced planting densities. A residential lot within asset protection zones cannot compliment the existing landscape character that is present to this area, nor satisfy the intent of DCP control D3.1 Character as viewed from a public place.</p> <p>The landscape proposal includes new tall canopy trees however many of these are within the 5 metres of the proposed buildings and therefore do not comply with the recommendations of DCP control C1.1 whereby the 5 metres is required to allow the establishment of such large trees in the long term.</p> <p>The location as shown of the many large canopy trees in close proximity to the proposed buildings and structures will present an ongoing risk to buildings and persons, and it is not anticipated that full growth will be possible.</p> <p>The arrangement of tree planting including smaller canopy trees are proposed only along boundaries and thus the bulk and scale, and integration of the proposed buildings in elevation, into the landscape setting is not achieved.</p> <p>The LEP zone E4 Environmental Living outcomes and DCP control D3.1 Character as viewed from a public place intent becomes difficult</p>

Internal Referral Body	Comments
	<p>to satisfy without a reduced building footprint to permit the retention or the planting of trees that also satisfies the asset protection zone guidelines, where residential development is of a low density and scale integrated with the landform and landscape.</p> <p>The landscape plans and arborist report are not precisely coordinated and no reference is provided on the landscape plans to include like for like identification of trees to be removed and retained. In the Arborist report existing trees along the southern front side boundary area includes retention of Sydney Red Gums identified as numbers T27 to T33 and T43 and T44 and listed as being outside of the tree protection zone, yet on the plans proposed retaining walls in close proximity may impact upon the retention of these existing trees, further increasing the loss of existing canopy, and thus not satisfying DCP control B4.22 Preservation of Trees and Bushland Vegetation.</p> <p>The predominately full width coverage of the garage and driveway alters the natural landscape character of the streetscape that is dominated by trees and vegetation, and this proposal exposes a portion of the Bilgola Bends to a built form visually inconsistent with the local character.</p> <p>Concern remains regarding the encroachment of retaining walling, stairs and mass planting within the road reserve fronting the adjoining properties at 519 and 523 Barrenjoey Road, and an arrangement will limit development of those properties including vehicular access as this development occupies an extensive portion of the road reserve available to the adjoining properties, that are also zoned as E4 Environment Living as is the subject development site, and any future removal of such encroachment works is placed upon future applicants.</p> <p><u>Additional comments on revised landscape plan received 17/09/2021</u></p> <p>I have reviewed the updated landscape plans and whilst the landscape scheme is improved I still have issues including:</p> <p>To satisfy the intent of LEP zone E4 Environmental Living, the site is required to support many tall canopy trees above the building height to allow the proposed building to be secondary to the landscape setting.</p> <ul style="list-style-type: none"> - The landscape proposal includes 9 new tall canopy trees however many of these are within the 5 metres of the proposed buildings and therefore do not comply with the recommendations of DCP control C1.1 whereby the 5 metres is required to allow the establishment of such large trees in the long term. - The location as shown of the many large canopy trees in close proximity to the proposed buildings will present an ongoing risk to buildings and persons, and it is not anticipated that full growth will be possible.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> - At best possibly only three large canopy trees are able to be supported within the site at a distance of 5 metres from buildings and structures. Whilst this satisfies the DCP control C1.1 requiring three trees upon a site, the intent of LEP zone E4 Environmental Living is not satisfied as existing land in this area contains extensive tall canopy trees over and above the C1.1 control of the DCP, and other DCP controls are additionally required to be satisfied including D3.1 Character as viewed from a public place, and LEP objectives for the E4 zone. - The arrangement of tree planting including smaller canopy trees are proposed only along boundaries and thus the bulk and scale, and integration of the proposed buildings in elevation, into the landscape setting is not achieved. - The east elevation remains a prominent visual built form. Deep soil areas between the garage and store building, and the lower main residence are occupied by the studio and 2 offices. The Landscape Plans do not provide any tree planting to these areas that are able to support replacement tree planting, and it is advised that this is necessary to reduce the built form of the development. - The frontage treatment to the site provides no adequate landscaped front setback and concerns are raised regarding the built form presentation to the streetscape and surrounds, contrary to the objectives of clause D3.1 Character as viewed from a public place. The natural landscape and slope character of this section of the Bilgola Bends is predominately dense vegetation growing in close proximity in clumps along the slopes for slope stability, and this proposal will expose a portion of the Bilgola Bends to public view and thus will be visually inconsistent with the local character. - The Landscape Plans include retaining walling, stairs and mass planting within the road reserve fronting the adjoining properties at 519 and 523 Barrenjoey Road, and concern is raised that such an arrangement will limit development of those properties including vehicular access as this development occupies an extensive portion of the road reserve available to the adjoining properties. <p><u>Additional Comments on revised plans received 19/11/2021</u></p> <p>Revised plans are submitted indicating additional tree replacement planting and other planting primarily between the garage and store building at the front boundary and the lower residence occupied by the studio and offices.</p> <p>This includes proposed native tree planting of Spotted Gums, Turpentines and Coast Banksia. It is assumed, but not clearly known from the documents if this area will be preserved as natural ground or removed as part of the site works and then replaced, as no side boundary retaining walls are indicated that would otherwise suggest</p>

Internal Referral Body	Comments
	<p>removal of the natural ground between the garage and store building at the front boundary and the lower residence occupied by the studio and offices. Given this it seems appropriate that existing trees in this area should be preserved rather than removed and replaced. A total of four Sydney Red Gums and two Bastard Mahogany trees exist and all are rated in the arborist report with suitable retention values.</p> <p>Whilst the amended landscape plans provides planting to the available landscape area outside of the building footprint to satisfy DCP control C1.1 Landscaping, the amended plans continue to essentially alter the landscape character of the existing site and area that is characterised by a natural landscape of steep slopes with tree and vegetation planting that is the prominent visual element of the surrounding area, impacting the desired intent of DCP control D3.1 Character as viewed from a public place.</p> <p>The amount of canopy and vegetation lost as a consequence of the construction and building footprint upon the site results in the deliverance of a building that will be the prominent focus. The establishment of any replacement canopy trees and vegetation is not an easily achieved occurrence and relies on good management and intent.</p> <p>The site is designated as a bushfire asset protection zone, and as such the character of the landscape fundamentally changes, as any new landscaping to the site will be required to comply with the principles of Appendix 4 and section 3.7 of Planning for Bush Fire Protection 2019. Much of this includes isolating tree canopies, increased tree separation, and reduced planting densities. A residential lot within a asset protection zone cannot compliment the existing landscape character that is present to this area, nor satisfy the intent of DCP control D3.1 Character as viewed from a public place.</p> <p>In view of the above analysis of the amended plans, the LEP zone E4 Environmental Living outcomes and DCP control DCP control D3.1 Character as viewed from a public place intent becomes difficult to satisfy without a reduced building footprint to permit the retention or the planting of trees that also satisfies the asset protection zone guidelines, where residential development is of a low density and scale integrated with the landform and landscape.</p> <p>The amended landscape plans and arborist report are not precisely coordinated and no reference is provided on the amended landscape plans to include like for like identification of trees to be removed and retained. In the Arborist report existing trees along the southern front side boundary area includes retention of Sydney Red Gums identified as numbers T27 to T33 and T43 and T44 and listed as being outside of the tree protection zone, yet on the amended plans proposed retaining walls in close proximity may impact upon the retention of these existing trees, further increasing the loss of existing canopy, and thus not satisfying DCP control B4.22 Preservation of Trees and</p>

Internal Referral Body	Comments
	<p>Bushland Vegetation.</p> <p>The predominately full width coverage of the garage and driveway alters the natural landscape character of the streetscape that is dominated by trees and vegetation, and this proposal exposes a portion of the Bilgola Bends to a built form visually inconsistent with the local character.</p> <p>Concern remains regarding the encroachment of retaining walling, stairs and mass planting within the road reserve fronting the adjoining properties at 519 and 523 Barrenjoey Road, and an arrangement will limit development of those properties including vehicular access as this development occupies an extensive portion of the road reserve available to the adjoining properties, that are also zoned as E4 Environment Living as is the subject development site, and any future removal of such encroachment works is placed upon future applicants.</p> <p>In summary, it is envisaged that the proposed development if approved will create a new and altered 'landscape character' that presents a substantial development footprint upon the site, and cannot be landscaped to integrate into the existing landscape character as use of the site for residential living is required to satisfy asset protection zone that limits tree canopy and understorey vegetation.</p>
NECC (Bushland and Biodiversity)	<p>Not supported</p> <p>Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:</p> <ul style="list-style-type: none"> - Pittwater LEP cl. 7.6 Terrestrial Biodiversity. - Pittwater 21 DCP cl. B4.17 Littoral Rainforest - Endangered Ecological Community. - Pittwater 21 DCP cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor. - Coastal Management SEPP 2018 cl. 11 Development on land in proximity to coastal wetlands or littoral rainforest. <p>The Development Application seeks consent for the construction of a new dwelling house including swimming pool, within a vacant vegetated block of land.</p> <p>It is noted that the following biodiversity related reports/documentation have been reviewed during the assessment of this proposal:</p> <ul style="list-style-type: none"> - Statement of Environmental Effects (Peter Downes Designs). - Arboricultural Impact Assessment Report (Joanne Willis, June 2021). - Flora and Fauna Surveys and Biodiversity Impact Assessment

Internal Referral Body	Comments
	<p>(ACS Environmental, June 2021).</p> <ul style="list-style-type: none"> - Bushfire Risk Assessment (Bush Fire Planning Services, June 2021). - Landscape Plan (Aspect Designs, January 2021). <p>The Arborist Report recommends the removal of a total of 28 native prescribed trees which form part of PCT 1778: Coastal Sandstone Foreshores Forest as identified by Ecologist. This is a loss of approximately 460m² of PCT 1778 (ACS Environmental, June 2021). 30 of the 53 trees are located within the subject site, and of these, 20 are proposed for removal. This is a reduction in canopy trees by 66%.</p> <p>The Biodiversity Impact Assessment has addressed PLEP cl. 7.6 within the report, however it appears that the statements provided do not adequately assess the proposed impacts. The Ecologist states that "<i>the individuals mostly occur in only fair condition, and this removal would be offset by replacement planting of species landscaped to 80% of representative species for Coastal Sandstone Foreshore Forest. This offset could be considered adequate to maintain the condition, ecological value and habitat for flora and fauna at this small section of the subject land</i>". The Landscape Plan has only proposed one (1) replacement tree, an <i>Angophora costata</i>, which is not sufficient to offset the removal of 28 mature trees.</p> <p>The reduction of native canopy trees as a result of the proposed development is a loss of approximately 66% from the site, and unfortunately given the size of the development and existing trees proposed for retention, it does not seem feasible to sufficiently offset the canopy trees proposed for removal at a ratio of even 1:1. Furthermore, as the site is designated as an Asset Protection Zone (APZ), any new landscaping to the site will be required to comply with the principles of Appendix 4 and section 3.7 of Planning for Bush Fire Protection 2019.</p> <p>The subject site is located within the Flora and Fauna Conservation Areas-Category 2 map in accordance with cl. B4.4 of the P21DCP, which prescribes that development shall provide flora and fauna habitat and wildlife corridors by active restoration, regeneration, and/or creation. The development does not comply with this clause as it will impact connectivity within the wildlife corridor due to direct impact of removal of trees and lack of adequate replacement of lost habitat.</p> <p>In relation to the Coastal Management SEPP, the SEE simply states "<i>The writer submits that the proposed development will have no impact on the coastal processes, or public use, or access to a beach or adjoining coastal headland</i>". Further assessment of the potential impacts on the patch of Littoral Rainforest below the site is required in relation to the following:</p> <ul style="list-style-type: none"> (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

Internal Referral Body	Comments
	<p>(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</p> <p>Due to the tree removal proposed, and lack of offset planting proposed, the development does not comply with P21DCP cl. B4.4 and cl. B4.17, as the proposal will result in a significant onsite loss of canopy cover and a net loss in native canopy trees and will cause impacts to connectivity within the mapped wildlife corridor.</p> <p><u>Additional Comments based on the revised plans received 19/11/2021</u></p> <p>It is noted that additional documentation has been submitted in response to the Original Biodiversity Referral. The following additional amended documentation relating to biodiversity have been reviewed in preparation of these comments:</p> <ul style="list-style-type: none"> - Amended Landscape Plan (Aspect Designs, September 2021). - Biodiversity Letter – Response to Natural Environment Referral Response - Biodiversity (ACS Environmental Pty Ltd, November 2021). <p><u>Pittwater Local Environmental Plan 2014 (PLEP)</u> PLEP cl. 7.6 Biodiversity Protection requires that consent must not be granted if the consent authority is not satisfied that the development has been designed, sited and will be managed to avoid and minimise significant adverse environmental impact.</p> <p>It is considered that design alternatives are available (e.g. deletion of the secondary dwelling, reduction in footprint of the primary dwelling) which would assist in reducing the extent of tree removal required to facilitate the development.</p> <p>The amended landscape plan provides for 21 native replacement tree plantings (increased from one in the original plans), as well as an additional 24 smaller native trees and abundant native shrubs and groundcovers. However, as the entire lot will be required to be managed as an Asset Protection Zone (APZ), any new landscaping must comply with the requirements of Appendix 4 of Planning for Bushfire Protection (PBP) 2019 (including maintenance of a reduced canopy coverage).</p> <p>It is considered that the dense replacement plantings of the amended landscape plan would not comply with the landscaping requirements of PBP (2019). As such, it is considered that the amended landscape plans cannot satisfactorily mitigate the loss of native vegetation that will result from a development of this scale. In accordance with previous advice, the proposal should be redesigned to reduce the footprint of the development and thereby reduce the extent of impacts to vegetation, rather than relying on replacement plantings.</p>

Internal Referral Body	Comments
	<p>In light of the above, Council's biodiversity referrals body is not satisfied that the proposal has been designed and sited to avoid and minimise adverse environmental impacts, and thus considers that the proposal remains inconsistent with PLEP cl. 7.6.</p> <p><u>Pittwater 21 Development Control Plan (PDCP)</u> Pittwater 21 DCP cl. B4.4 – Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor requires that development shall result in “no significant onsite loss of canopy cover or net loss in native canopy trees”. As noted above, the amended landscape plan provides for dense replacement plantings to compensate for extensive tree removal required to facilitate a development of this scale. As these dense plantings are unlikely to comply with the landscaping requirements of PBP, it is considered that replacement planting cannot be relied upon to achieve consistency with the canopy retention requirements of DCP cl B4.4. Instead, the proposal should be redesigned to retain more of the existing native vegetation on site.</p> <p>Furthermore, the removal of 28 native canopy trees offset by the proposed replacement planting of 21 native canopy trees still results in a net loss in native canopy trees, which remains non-compliant with cl. B4.4 of the P21DCP.</p> <p><u>Coastal SEPP</u> In accordance with cl. 11 of the Coastal Management SEPP 2018, consent must not be granted if the consent authority is not satisfied that the development will not significantly impact on the i) biophysical, hydrological or ecological integrity of the adjacent littoral rainforest; or ii) the quantity and quality of surface and ground water flows to and from the adjacent littoral rainforest.</p> <p>The additional information provided by the Ecological Consultant does not adequately demonstrate how the proposal will meet the abovementioned requirements. As per previous biodiversity referral advice, further information is required before Council can be satisfied that the proposal complies with SEPP (Coastal Management).</p>
NECC (Development Engineering)	<p>Not supported</p> <p><u>Original comments</u></p> <p>The proposal is for the construction of a new dwelling with new vehicular access to Barrenjoey Road.</p> <p><u>Access</u> The proposed vehicular access, turntable, access stairs and associated structures in the road reserve require comments from Road Asset team and concurrence from TfNSW.</p> <p>TfNSW have provided comments on the proposed access arrangements that require significant changes to the design. Further</p>

Internal Referral Body	Comments
	<p>assessment is required once required amendments are completed.</p> <p><u>Stormwater</u> The impervious area calculated in the stormwater plans by Taylor Consulting appears to be underestimated. all built areas including roof gardens shall be assumed as impervious. The plans are to include a catchment plan indicating the impervious and pervious areas assumed in calculations and the areas draining to the OSD system. OSD shall be provided in accordance with Clause 9.3.1 of Council's Water Management for Development Policy.</p> <p><u>Additional comments on revised plans submitted 19/11/2021</u></p> <p><u>Access</u> Based on the amended plans the previously proposed turntable on the road reserve has been deleted. However the vehicular crossing, retaining walls and pedestrian access stairs still require concurrence from TfNSW and comments from Road Asset team before engineering conditions can be provided.</p> <p>Additionally the Applicant shall provide a long-section at both edges of the proposed access driveway to the proposed garage and demonstrate compliance with AS2890.</p> <p><u>Stormwater</u> The amended stormwater plans showing the catchment area and calculations is acceptable. Any issues with the OSD can be addressed via conditions.</p>
NECC (Riparian Lands and Creeks)	<p>Supported</p> <p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>This site is close to Bilgola Beach and drains to that coastal zone. The development must not significantly impact on the biophysical, hydrological or ecological integrity of these waters, or on the quantity and quality of surface and ground water flows to the ocean and beachfront.</p> <p>Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover reestablished.</p> <p>This application, subject to conditions, is recommended for approval as it is unlikely to have an adverse effect on the integrity and resilience of the biophysical, ecological and hydrological environment of Bilgola Beach.</p>
Road Reserve	<p>Not supported</p> <p>The referral comments from the Department for Transport remain unresolved in relation to a number of elements, namely retaining</p>

Internal Referral Body	Comments
	<p>walls, support structures and turntable, being located within private property.</p> <p>The use of retaining walls and other support structures to allow vehicle access to properties in steep terrain is typical along this corridor and in this instance would seem reasonable and warrant further investigation. Further consideration of locating a turntable within the driveway may be warranted if it were to allow visiting vehicles and deliveries to enter and leave in a forward direction.</p> <p>The need for further details demonstrating safe access (swept paths and sight distance) for turning vehicles is supported.</p> <p>The proposal is therefore unsupported.</p> <p><u>Additional comments on revised plans received 19/11/2021</u></p> <p>The removal of the turntable is noted. The compliance of swept paths and sight distance for turning vehicles is noted.</p> <p>The retaining structures associated with the driveway access are supported subject to s138 Road Act application and consent with TfNSW concurrence</p>
Strategic and Place Planning (Heritage Officer)	<p>Not supported</p> <p>The proposal has been referred to Heritage as the subject site is within the vicinity of a heritage item:</p> <ul style="list-style-type: none"> - Grove of Cabbage Tree Palms (<i>Livonstona Australis</i>) - Numerous lots within Bilgola Beach. <p>Details of the item as contained within the Pittwater inventory is as follows:</p> <p><u>Statement of Significance</u></p> <p>The Grove of Cabbage Tree Palms (<i>Livistona australis</i>) is a landscape heritage item of local significance with natural, aesthetic, scientific, historic and social significance for the Pittwater local government area. Strong and densely established, this grove is emblematic of Bilgola as a locality within the larger peninsula and municipality. The occurrence of cabbage tree palms, said to be the best remaining stand in the Sydney area, add to the natural beauty of the area. The area is an important recreational resource for the people of Sydney.</p> <p><u>Physical Description</u></p> <p>The Grove of Cabbage Tree Palms in the Bilgola Valley covers several properties to the east and west of Barrenjoey Road in Bilgola. The general area is within the Watagan Soil Landscape grouping, a colluvial landscape characterised by rolling to very steep hills on fine-</p>

Internal Referral Body	Comments
	<p>grained Narrabeen Group sediments. Local relief is 60-120 metres with slopes exceeding 25%. The area is typical of the soil landscape grouping, with narrow convex crests and ridges, steep colluvial slopes, occasional sandstone boulders and benches. Vegetation grades from open forest of eucalypts and <i>Angophora costata</i> (Smooth-barked Apple) on the ridges down to closed forest of <i>Livistona australis</i> (Cabbage Palm) with associated rainforest species in the sheltered gullies on the mid and lower slopes. The disturbed margins of the remnant bushland are heavily infested with <i>Lantana camara</i> (Lantana). The major stands of Cabbage Palm are within Attunga Reserve, although scattered individuals and small groups of mixed ages are also found near the edges of the remnant bushland areas.</p> <p><u>Consideration of the application</u></p> <p>The proposal seeks consent for a new dwelling, garage, significant excavation and vegetation removal on the subject land. Immediately adjacent to the east and west of the property are undeveloped lands. To the south and south west is the heritage listed strand of Cabbage Tree Palms. These palm trees benefit from being located mostly within densely vegetated lands which contribute to the character of the item and its aesthetic significance, as well as the landscape character of Bilgola Beach. This heritage item has not been addressed by the proposal.</p> <p>The proposal is not supported by Heritage as it is inconsistent with control B1.2 of the Pittwater 21 DCP, Development in the vicinity of heritage items. While the item is located opposite the site and separated via Barrenjoey Road, there is extensive works for the garage and storeroom proposed with a tall retaining wall and fence that is inconsistent with the character of this heritage item and area. This treatment extends beyond the front of this property into the road reserve in front of adjacent properties which increases the impact. Overall the proposal (including the garage and dwelling) is not considered to be designed in a way that respects and compliments the heritage item and its aesthetic character, nor does it provide an adequate buffer zone to allow for a transition in character to occur.</p> <p>In addition there is tree removal proposed without much opportunity for replacement planting to soften the proposal. It is noted that there is otherwise a strongly defined densely landscaped character (including the heritage palms) in this area which this proposal runs counter to.</p> <p>Therefore Heritage recommends amended plans which better respond to the heritage item and character of the area. Based on the current plans Heritage cannot support the proposal.</p>
Traffic Engineer	<p>Not supported</p> <p><u>Original Response 29/07/2021</u></p> <p>The application has been assessed in line with the accepted plans</p>

Internal Referral Body	Comments
	<p>submitted. The location is problematic from an access and constructability perspective.</p> <p><i>Access and Parking</i> The applicant needs to consider the provision of suitable parking numbers for the property as there is no potential for the on-street parking to be available, with parking available on site for 4 cars. The provision of a vehicle turntable allows vehicles to enter and leave the site in a forward direction. The proposal has significant structures to be constructed within the public road reserve and these actually impact on the adjoining authority (TfNSW) owned adjoining properties, which also have the potential to impact the line of sight to the parking garage entry.</p> <p>The concern regarding location in relation to the horizontal road alignment and vehicles entering the travel lane need to be provided suitable vision of traffic approaching the site and that the requirement for safe stopping distances can be met. The vehicle access is to be limited to left in and left out only with the necessary infrastructure to be provided to provide an engineering control to achieve this requirement.</p> <p>Concurrence has not been provided by TfNSW in respect to the proposal adjoining the classified state road corridor. No structures are to be located within the road reservation that impact the potential for future works to be undertaken within the road reserve, or impact on the future access to the adjoining properties, or impact on vision of road users or the drivers accessing the proposed site.</p> <p><i>Construction Management</i> The draft Construction Traffic Management Plan provided with the application appears to be a generic document that has not considered the site specific restrictions that the management will need to address.</p> <ul style="list-style-type: none"> - The nearest on-street parking is over 400m away and there is no safe pedestrian path of travel to the site. - The road shoulder is generally less than 1.5 m wide and will require significant traffic control to be implemented during the construction program - Access and deliveries to the site will be restricted by the times available for the road occupancy (TMC ROL) likely to be limited to 10 am to 2pm Mon - Fri only. - The turning paths provided and the travel route are not indicating that vehicles will follow the travel route provided and appear in one plan to head north from the site and in the other appears to head directly to the south. - The major work on site may need to be undertaken during non standard hours and limited to periods when traffic flows are significantly reduced, especially for major crane lifts etc.

Internal Referral Body	Comments
	<p>The concern is that these issues have not be considered in sufficient detail to allow a constructive assessment to be undertaken.</p> <p>The application is not supported in its current form.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>Supported</p> <p>The proposal was referred to Ausgrid who confirmed that there are no Ausgrid assets present.</p>
NSW Rural Fire Service – local branch (s4.14 EPAA)	<p>Supported</p> <p>The application was referred to the New South Wales Rural Fire Service for comment as the site is identified as being 'Flame Zone'. The Rural Fire Service have advised they support the application, subject to conditions.</p>
Concurrence – NSW Roads and Maritime Services - SEPP Infrastructure (cl 100 Development on proposed classified road)	<p>Not Supported</p> <p>TfNSW has reviewed the development application and is unable to provide concurrence under the Roads Act, 1993 to the proposed vehicular crossing on Barrenjoey Road due to the following reasons:</p> <ol style="list-style-type: none"> 1. The proposed vehicular access is to be designed so that all vehicles are able to enter and exit in a forward direction. The proposed turntable or other turn around facility is be located entirely within the private property. 2. Retaining walls, support structures and landscaping proposed within the road reserve are not supported and need to be located within the private property. 3. Swept paths of passenger vehicles entering and exiting the subject site from the kerbside lane have not been submitted for review. The swept path plans need to demonstrate forward entry and exit of vehicles into each of the proposed car parking spaces. Lane allocation of Barrenjoey Road should be included on the swept paths plans to demonstrate manoeuvres from the kerbside lane. Movements should not impact traffic flow on adjacent lanes and vehicles are to be wholly contained on site before being required to stop. 4. TfNSW notes the location of the driveway is at the bend of Barrenjoey Road and there could be reduced visibility in this location due to vegetation and topography. The applicant is requested to confirm whether a sight distance analysis has been under taken in accordance with Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists. 5. Barrenjoey Road in this location is a single lane in each

External Referral Body	Comments
	<p data-bbox="614 315 1401 450">direction and there may be constraints with having all construction and demolition vehicles to be located entirely within this site. Potential impacts on motorists and mitigation measures need to be considered early on.</p> <p data-bbox="518 528 1289 562"><u>Additional comments on revised plans received 19/11/2021</u></p> <p data-bbox="518 600 1382 734">Based on your information that density of development remain the same and that turning table has been removed in the latest plan, TfNSW would require more details in relation to accommodating access arrangement for this development, at that specific location.</p> <p data-bbox="518 772 1398 907">The applicant needs to demonstrate how the site can be safely accessed if there is no alternative access option and the proposed size of development remains the same. Can the turntable option be re-designed to be located within the the property boundary?</p> <p data-bbox="518 945 1426 1014">In summary, concurrence from TfNSW remains outstanding based on the amended plans.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been vacant and heavily vegetated for a significant period of time with no prior land uses.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1207364S dated 29

June 2021).

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

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

Should the application be supported a condition can be included requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who advised that there are no Ausgrid assets present and therefore no objections to the proposal.

Transport for NSW (TfNSW) previously known as Roads and Maritime Service (RMS)

Clause 101 - Development with frontage to classified road

Clause 101 states:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is

appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

Transport for NSW have confirmed that insufficient information has been submitted to demonstrate that the proposal will not impact on the safety, efficiency and ongoing operation of the classified road during construction and as a result of the development and concurrence cannot be issued. The proposal therefore fails to satisfy Clause 101 of the Infrastructure SEPP 2007.

Clause 102 - Impact of road noise or vibration on non-road development

Clause 102 states:

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Comment:

It is not anticipated that impact from road noise or vibration will have unreasonable impacts on the future dwelling. Should the application be supported a condition can be imposed to ensure that the dwelling is sign to meet the acoustic limits specified in Clause 102(3)(a) and (b).

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

- (1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
 - (a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
 - (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
 - (c) the carrying out of any of the following:*
 - (i) earthworks (including the depositing of material on land),*
 - (ii) constructing a levee,*
 - (iii) draining the land,*
 - (iv) environmental protection works,*
 - (d) any other development.*

Comment:

The site is mapped as being located within the Littoral Rainforest Proximity Area.

11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment:

Council's Bushland and Biodiversity Officer has confirmed that the additional information dated 19/11/2021 provided by the Ecological Consultant does not adequately demonstrate how the proposal will meet the abovementioned requirements. As per previous biodiversity referral advice, further information is required before Council can be satisfied that the proposal complies with SEPP (Coastal Management).

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*

Comment:

As discussed above, insufficient information has been submitted to demonstrate that the proposal complies with SEPP (Coastal Management) in terms of its impacts on the ecological environment.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

As discussed above, insufficient information has been submitted to demonstrate that the proposal has been designed, sited and managed to avoid and minimise adverse impacts on the ecological environment.

As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone SP2: No Zone C4 : Yes
After consideration of the merits of the proposal, is the development consistent with: aims of the LEP?	No
zone objectives of the LEP?	Zone SP2: No Zone C4 : No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.3 - Height of Buildings	8m	9.9m building 11.1m Balustrades	23.75% 38.75%	No No

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	No
4.6 Exceptions to development standards	No
5.1A Development on land intended to be acquired for public purpose	No
5.10 Heritage conservation	No
7.1 Acid sulfate soils	Yes
7.2 Earthworks	No
7.6 Biodiversity protection	No
7.7 Geotechnical hazards	No
7.10 Essential services	No

Detailed Assessment

Zone SP2 Infrastructure

The portion of the site frontage zoned SP2 is subject to 'Area 24' Schedule 1 additional permitted uses which allows 'Development for the purposes of enabling access to a dwelling house'.

Whilst a garage is considered to form part of access to the dwelling house, the storeroom above the garage is not consistent with the permitted development in this part of the site and therefore is therefore prohibited in the SP2 zone. In addition, the store above the garage (within the SP2 zone) is inconsistent with the objectives of zone, namely:

- ***To provide for infrastructure and related uses.***
- ***To prevent development that is not compatible with or that may detract from the provision of infrastructure.***

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone SP2 Infrastructure of the Pittwater Local Environmental Plan 2014.

Zone C4 Environmental Living

While a dwelling house is permissible within the E4 Environmental Living zone the proposal is inconsistent with the objectives of the zone as discussed below.

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

Comment:

The footprint of the dwelling is not considered to represent a low-impact residential development. The proposal includes the removal of 28 mature canopy trees and the entire lot will be required to be managed as an Asset Protection Zone (APZ) in compliance with the requirements for Planning for Bushfire Protection (PBP) 2019. The significant loss of native vegetation will have unreasonable impacts on the ecological and aesthetic values of the area.

- ***To ensure that residential development does not have an unreasonable adverse effect on the ecological and aesthetic values of the area.***

Comment:

For the reasons discussed above, the proposal will have an unreasonable adverse effect on the ecological and aesthetic value of the area. The amount of canopy and vegetation lost as a consequence of the construction and building footprint upon the site results in the deliverance of a building that will be the prominent focus which cannot be integrated into the existing landscape. In summary, the proposal and will have adverse impacts on the ecological and aesthetic values of the area.

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

Comment:

The proposal represents overdevelopment as expressed by the inconsistency with a number of built form controls, including height, building envelope and the front setback. In addition, the footprint of the dwelling and garage is extensive, and the proposal requires a significant amount of excavation and treeremoval. The development is not considered to be of a low density and as a direct result of the excessive scale and bulk of the development it fails to integrate with the existing landform and landscape.

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

Comment:

Council's Biodiversity Officer has confirmed that the dense replacement planting in the revised landscape plan would not comply with the landscape requirements needed to meet the APZ requirements of PBP (2019). As such, the revised landscape plan cannot mitigate the loss of native vegetation that will result from this scale of development and the impacts on wildlife corridors (refer to discussion under the Internal Referrals (Biodiversity) section of this report). The proposal fails to retain and enhance the riparian vegetation resulting in adverse impacts on the existing wildlife corridors.

4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Height of buildings
Requirement:	8m
Proposed:	11.1m (balustrade) 9.9m (building)
Percentage variation to requirement:	38.75% (balustrade) 23.75% (building)

A clause 4.6 variation was not submitted with the original application. Therefore, Council does not have the power to grant a variation to Clause 4.3 Height of Buildings development standard.

*It is noted that a Clause 4.6 variation was submitted with the concept plans received via email on 19 November 2021. However, for the reasons discussed in the history section, the plans have not been formally accepted by Council.

5.1A Development on land intended to be acquired for public purpose

Clause 5.1A (1) states:

The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.

Sub-clause (2) states *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.*

Sub-clause (3) 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.*

Column 1

Column 2

Land

Development

Zone SP2 Infrastructure and marked "Classified road" Roads

Comment:

The southern section of the site is zoned SP2 classified road on the Pittwater Land Reservation Acquisition Map, however, the land has not been acquired by TfNSW. The proposal includes work within the SP2 zone, namely, a turntable, retaining wall and landscaping which are not directly related to the purpose specified in column 2, namely roads and concurrence for this work has not been granted by TfNSW.

This site is also subject to the *Area 24' Schedule 1 additional permitted uses* provisions which allows development for the purpose of enabling access to a dwelling house. While the garage and driveway facilitate access in compliance with Schedule 1 the store located above the garage is prohibited. Refer to the discussion under section Zone SP2 Infrastructure of this report.

Therefore, pursuant to Clause 5.1 (3) development consent cannot be granted.

5.10 Heritage conservation

Clause 5.10 (4) of the PLEP requires:

- *The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.*

Comment:

The proposal seeks consent for a new dwelling, garage which requires significant excavation and significant removal of vegetation on the subject site. Immediately adjacent to the east and west of the property are undeveloped lands, to the south and south west is the heritage listed strand of Cabbage Tree Palms (Local Heritage Item Ref: 2270031). These palm trees benefit from being located mostly within densely vegetated lands which contribute to the character of the item and its aesthetic significance, as well as the landscape character of Bilgola Beach.

The heritage item has not been satisfactorily addressed by the proposal and the works along the road frontage will have unreasonable impacts on the landscape character and the setting of the heritage listed grove of Cabbage Tree Palms contrary to Cause 5.10 (4) of the PLEP (refer to Council's Heritage Officers comments in the referral section of this report).

7.2 Earthworks

Clause 7.2 requires:

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,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) the proximity to and potential for adverse impacts on any heritage item, archaeological site, or*

heritage conservation area.

Comment:

The application is supported with a geotechnical report prepared by Douglas Partners who conclude that subject to compliance with the recommendations of the report that the proposal is not expected to affect the overall stability of the site or adjacent properties or individual risk to life in compliance with Clause 7.2 of the PLEP.

Significant concern has however been raised in the submissions regarding the extent of excavation which is agreed to be extensive. Insufficient mitigation measures having been submitted to address the concerns from TfNSW relating to the potential impacts of the development during construction (and excavation) on road safety given the location of the site at the bend in the classified road.

In this regard, the proposed earthworks fail to sufficiently provide details on measures to avoid, or mitigate the impacts of the earthworks on the public road contrary to Clause 7.2(h) of the PLEP.

7.6 Biodiversity protection

Clause 7.6 requires:

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether the development is likely to have:

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

(v) 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 the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised - the development will be managed to mitigate that impact.

Comment:

The proposal includes the removal of 28 mature canopy trees to facilitate the extensive footprint of the development. The amended /concept landscape plan provides for 21 native replacement tree plantings (increased from one in the original plans), as well as an additional 24 smaller native trees and abundant native shrubs and groundcovers. However, as the entire lot will be required to be managed as an Asset Protection Zone (APZ), any new landscaping must comply with the requirements of Appendix 4 of Planning for Bushfire Protection (PBP) 2019 (including maintenance of a reduced canopy coverage).

It is considered that the dense replacement plantings of the revised landscape plan would not comply with the landscaping requirements of PBP (2019) and therefore cannot satisfactorily mitigate the loss of native vegetation that will result from a development of this scale. The revised landscape plans have not been considered but not formally accepted due to the fact that they fail to address the TfNSW concurrence issues. The application has therefore been assessed against the original plans.

In summary, Council's Biodiversity Unit is not satisfied that the proposal has been designed and sited to avoid and minimise adverse environmental impacts, and the proposal is inconsistent with clause 7.6 of the PLEP.

7.7 Geotechnical hazards

Clause 7.7 requires:

(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 and 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:

Insufficient information has been submitted to ensure that stormwater management is addressed. Furthermore, insufficient information has been submitted to satisfy Council that the development has been designed, sited and managed to avoid significant impacts on the land surrounding the development (including Barrenjoey Road) particularly during construction and that the risks or impacts associated with the development can be reasonably avoided or managed.

In summary, the proposal is inconsistent with Clause 7.7 of the PLEP.

7.10 Essential services

Clause 7.10 requires:

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:

The site is vacant, heavily vegetated and has no formal means of access. Insufficient information has been submitted to demonstrate that the development has suitable vehicular access. Concern has also been raised in the submissions regarding the supply of other essential services to the site.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form	Requirement	Proposed	%	Complies
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Control			Variation*	
Front building line	6.5m	0m Garage 10 Dwelling	100%	No (refer to discussion under CI D3.6) Yes
Rear building line	6.5m	6.7m dwelling and pool	N/A	Yes
Side building line	2.5m	West - 1m	N/A	Yes
	1m	East 2.7m	N/A	Yes
Building envelope	3.5m	Up to 4.5m Outside envelope	Refer to details	No (refer to discussion under CI D3.9)
	3.5m	Up to 3.7m Outside envelope	Refer to details	No (refer to discussion under CI D3.9)
Landscaped area	60% (413.4sqm) variation 6% of site area (41.34sqm).	54.2% (373.3sqm) soft landscape variation 6% of site area (41.39sqm). (Note: The variation is subject to compliance with the objectives of the control) 60% when allowing permitted variations	5.8%	No (refer to discussion under CI D3.11) The proposal does not satisfy the objectives of the control and the variation cannot therefore be applied.

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.3 Bilgola Locality	No	No
B1 Heritage Controls	No	No
B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites	No	No
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	No	No
B4.22 Preservation of Trees and Bushland Vegetation	No	No
B5.15 Stormwater	No	No
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B6.2 Internal Driveways	No	No
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	No	No
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	No	No
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	No	No
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	No
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.14 Separately Accessible Structures	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	No	No
C1.25 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D3.1 Character as viewed from a public place	No	No
D3.3 Building colours and materials	Yes	Yes
D3.6 Front building line	No	No
D3.7 Side and rear building line	Yes	Yes
D3.9 Building envelope	No	No
D3.11 Landscaped Area - Environmentally Sensitive Land	No	No
D3.13 Fences - Flora and Fauna Conservation Areas	No	No
D3.14 Construction, Retaining walls, terracing and undercroft areas	No	No
D3.15 Scenic Protection Category One Areas		

Detailed Assessment

A4.3 Bilgola Locality

Clause A4.3 stipulates that:

- ***The desired future character of 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.***

- ***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.***

Comment:

The proposal requires significant excavation of the existing landform and the removal of 28 native trees for the construction of a seven level dwelling. The proposed development will create a new and altered 'landscape character' that presents a substantial development footprint as a result of the significant tree removal and the need to satisfy the Bushfire Asset Protection Zone requirements that limits tree canopy and understorey vegetation.

The proposal exceeds the 8m height limit and the bulk and massing of the dwelling is not considered to be low density or a design that respond to the unique qualities of the area.

The development cannot be integrated into the existing landscape character and is therefore considered to be inconsistent with the desired future character of the Bilgola area.

B1.2 Heritage Conservation - Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites

Clause B1.2 stipulates that:

- ***Developments in the vicinity of a heritage item, heritage conservation area, archaeological site or potential archaeological site are to be designed to respect and complement the heritage significance in terms of the building envelope, proportions, materials, colours and finishes, and building alignment.***

Comment:

A grove of Cabbage Tree Palms located to the south of the site along Barrenjoey Road is listed under the PLEP as a Local Heritage Item. The proposal is inconsistent with the requirements and outcomes of the control as discussed below:

- ***Conservation of the environmental heritage of Pittwater LGA in accordance with the principles contained in the Burra Charter.***

Comment:

The proposal does not maintain the setting of the heritage item located within the vicinity of the site and therefore does not promote the conservation of the environmental heritage of Pittwater LGA.

- ***Enhancement of the identified heritage values and significant character of the heritage conservation areas and encourage contemporary design that responds appropriately to their character.***

Comment:

While the heritage item is located opposite the site and separated via Barrenjoey Road, there are extensive works required for the garage and storeroom proposed with a tall retaining wall and fence that conflict with the environmental heritage of the area. The treatment to the frontage extends beyond

the front of this property into the road reserve and in front of adjacent properties which visually increases the impact on the setting of the heritage item.

Overall, the proposal (including the garage and dwelling) is not considered to be sensitively designed in a way that respects and complements the heritage item and its aesthetic character, nor does it provide an adequate buffer zone to allow for a transition in character to occur.

In addition, there is extensive tree removal without much opportunity for replacement planting to soften the proposal (due to required APZs). It is noted that there is otherwise a strongly defined densely landscaped character (including the heritage palms) in this area which this proposal runs counter to.

- ***Development respectful of environmental heritage, undertaken in a manner that is sympathetic to, and does not detract from, any heritage significance.***

Comment:

As discussed above, the development is not respectful or sympathetic of the environmental heritage and detracts from the heritage significance of the item.

B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor

Clause B4.4 requires that:

- *Development shall retain and enhance habitat for threatened species, endangered populations, endangered ecological communities and other locally native species.*
- *Development shall provide an adequate buffer to wildlife corridors.*
- *Development shall provide flora and fauna habitat and wildlife corridors by active restoration, regeneration, and/or creation.*
- *Development shall result in no significant onsite loss of canopy cover or net loss in native canopy trees.*
- *Development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of existing bushland and should not include environmental weeds.*
- *Planting is to maximise linkage to the wildlife corridor.*
- *Development shall not negatively impact on threatened species, endangered populations or endangered ecological communities.*
- *Caretakers of domestic animals shall prevent them from entering bushland.*
- *Fencing, where permitted, shall be passable by native wildlife.*

Comment:

The proposal is considered to be inconsistent with the requirements and outcomes of the control as discussed below:

- ***Conservation, enhancement and/or creation of habitats for locally native flora and fauna to ensure the long-term viability of locally native flora and fauna and their habitats.***

Comment:

The revised landscape plan provides for dense replacement plantings to compensate for extensive tree removal required to facilitate the scale of the proposed development. As these dense plantings are unlikely to comply with the landscaping requirements of PBP (owing to the need for considerable

APZs), it is considered that replacement planting cannot be relied upon to achieve consistency with the canopy retention requirements of DCP cl B4.4. Instead, the proposal should be redesigned to retain more of the existing native vegetation on site. Furthermore, the removal of 28 native canopy trees offset by the proposed replacement planting of 21 native canopy trees still results in a net loss in native canopy trees.

In summary, both the concept landscape plan and the original landscape plan are non-compliant with the control and the loss of native vegetation will have unreasonable impacts on native flora and fauna.

***Note:** Although the revised plans have been considered they have not been formally accepted by Council.

B4.22 Preservation of Trees and Bushland Vegetation

Clause B4.22 requires that:

- *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.*
- *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.*
- *Development must also avoid any impact on trees on public land.*
- *For development applications involving the construction of new buildings and works containing Classes 2-9 (BCA), the information contained in Appendix 18 (P21DCP) is to be submitted.*
- *Where trees proposed to be retained may be affected by the construction of new buildings and works of Classes 1 and 10, a Tree Protection Plan as per Appendix 19 (P21DCP) is to be submitted.*

Comment:

The existing site is a vacant lot and contains many significant trees indicative of the original vegetation found in the locality, typical of the Pittwater and Wagstaffe Spotted Gum Forest Endangered Ecological Community.

The proposal to remove 28 mature native canopy trees will impact on remnant native vegetation, including canopy trees and understorey vegetation and on remnant native ground cover species. The proposal is therefore inconsistent with the requirements and outcomes of the control as discussed below:

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

Comment:

The proposal will not protect or enhance the urban forest.

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

Comment:

The removal of approximately 66% of native canopy trees from the site is not supported.

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

Comment:

The extensive removal of the trees is likely to result in adverse environmental impacts.

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

Comment:

The extensive removal of canopy trees will have an adverse impact on endangered ecology.

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

Comment:

As noted above the removal of the trees will likely impact on plant and animal communities.

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

Comment:

The proposal will have an adverse visual impact in the scenic value and character of the Bilgola Locality.

B5.15 Stormwater

Clause B5.15 requires:

- *Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.*
- *The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management for Development Policy.*

Comment:

Council's Development Engineer cannot support the proposal as insufficient information has been submitted to address stormwater issues in compliance with Council's Water Management Policy.

It is noted that the revised stormwater plans were considered in principle to be acceptable by Council's Engineer. However, for the reasons discussed throughout this report the concept plans have not been formally accepted.

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

Clause B6.1 requires:

- *Access Driveways shall be designed and located to provide adequate sight distance to maximise*

pedestrian and vehicular safety as follows.

- i The location of the Access Driveway is to maximise the retention of trees and native vegetation in the public road reserve.*
- i Ancillary structures within the Road Reserve will be supported for the purposes of structurally supporting the access driveway only. Ancillary structures include retaining walls. Encroachment into the road reserve is to be minimised. Where retaining walls and structures are visible from a public place, preference is given to the use of textured finishes of dark earthy tones or sandstone-like finishes.*
- i All structural elements within the Road Reserve must be certified by a Structural Engineer. In addition, where the land is identified on the Landslip Hazard Map, the design of all structural elements must satisfy the Landslip Hazard Controls.*

Comment:

The proposal is inconsistent with the requirements and outcomes of the control for the reasons detailed below:

- ***Safe and convenient access.***

Comment:

Pursuant to Clause 4.47(4) of the Environmental Planning and Assessment Act 1979 and Section 138 (2) of the Roads Act 1993 Transport for NSW (TfNSW) have not granted concurrence for the work on Barrenjoey Road which is a classified road. The reasons are detailed in the External Referral section of this report but include issues related to road safety given the location of the driveway at the bend of Barrenjoey Road. TfNSW note that insufficient information has been submitted to demonstrate that there will be no unreasonable reduction of visibility in this location due to vegetation and topography on sight lines to and from the vehicular crossing to motorists, pedestrians and cyclists.

In addition, TfNSW note that Barrenjoey Road in this location is a single lane in each direction and insufficient information has been submitted to demonstrate that there will be no unreasonable constraints to motorists having all construction and demolition vehicles to be located entirely within this site. In the absence of concurrence from TfNSW the development application and any subsequent Section 138 application for works in the road reserve cannot to be consented.

- ***Adverse visual impact of driveways is reduced.***

Comment:

There is extensive works for the garage and storeroom proposed with a tall retaining wall and fence being presented to the public road that extends beyond the front boundary of the property into the road reserve in front of adjacent properties. The driveway and associated structures will have an unreasonable adverse visual impact on the character of area.

- ***Pedestrian safety.***

Comment:

As noted above, TfNSW have raised issues with pedestrian safety given the reduction of visibility in this location due to vegetation and topography.

- ***An effective road drainage system.***

Comment:

Insufficient information has been submitted with the original documentation in terms of the stormwater management

- **Maximise the retention of trees and native vegetation in the road reserve.**

Comment:

The proposal includes the removal of all existing vegetation from the road reserve to construct the turntable, retaining walls and associated structures.

B6.2 Internal Driveways

Clause B6.2 requires:

- *Provision is to be made for vehicles to enter and leave the site in a forward direction, where:*
 - i *the internal driveway grade exceeds 1:4 (V:H);*
 - i *the land abuts a roadway subject to high pedestrian use (e.g. School, Commercial Centre);*
 - i *driveways are more than 30m in length; and*
 - i *the driveway enters onto a classified road.*

Comment:

The driveway is proposed within the road reserve of a classified road and the proposal is inconsistent with the requirements and outcomes of the control as discussed below:

- **Safe and convenient access.**

Comment:

TfNSW do not support the proposal as the turntable is not permitted to be located within the road reserve and vehicular access is to be designed so that all vehicles are able to enter and exit in a forward direction. In addition, insufficient information, including swept paths plans, have not been submitted to demonstrate forward entry and exit of vehicles into each of the proposed car parking spaces. Vehicular movements should not impact traffic flow on adjacent lanes and vehicles are to be wholly contained on site before being required to stop.

- **Reduce visual impact of driveways.**

Comment:

For the reasons discussed under Clause B6.1 the work associated with the driveway will have an unreasonable visual impact on the character of the area.

- **Pedestrian safety.**

Comment:

For the reasons discussed under Clause B6.1 insufficient information has been submitted to demonstrate that the work associated with the driveway will not have an unreasonable impact on pedestrian safety.

- ***An effective road drainage system.***

Comment:

For the reasons discussed under Clause B6.1 insufficient stormwater information has been submitted to ensure that there is an effective road drainage system provided.

- ***Maximise the retention of trees and native vegetation.***

Comment:

For the reasons discussed under Clause B6.1 the work associated with access to the site involves the removal of existing trees and vegetation within the road reserve.

- ***Reduce contaminate run-off from driveways.***

Comment:

There is no record of the site being contaminated.

B6.7 Transport and Traffic Management

Clause B6.7 requires:

- *Adequate vehicular entrances to and exits from the site are to be provided so that vehicles using those entrances and exits will not endanger persons using adjoining roads.*
- *Adequate space is to be provided within the site of the building or development for the loading, unloading or fueling of vehicles, and for the picking up and setting down of passengers.*

The proposal is inconsistent with the requirements and outcomes of the control as discussed below:

- ***Safe and orderly traffic, pedestrian and cyclist access to and from all development via the surrounding road network and transport infrastructure.***

Comment:

For the reasons discussed throughout this report, insufficient information has been submitted to demonstrate that adequate vehicular access and egress has been designed to mitigate road safety to drivers, pedestrians and cyclists using Barrenjoey Road.

- ***The developer meets the cost of upgrading the surrounding road, and traffic and transport infrastructure to meet the needs generated by the development.***

Comment:

The development cannot be supported as concurrence has not been granted from TfNSW.

B8.1 Construction and Demolition - Excavation and Landfill

A geotechnical report has been submitted which is a basic requirement of the Clause B8.1. However, insufficient information has been submitted to address all geotechnical issues associated with the proposed earthworks, refer to discussion under Clause 7.2 and 7.7 of the PLEP.

B8.5 Construction and Demolition - Works in the Public Domain

Clause B8.5 requires:

- *All works undertaken within the public road reserve must be protected in a manner to ensure pedestrian and vehicular safety at all times.*
- *All works undertaken on site or in the public road reserve must make provision for pedestrian and traffic flow and not adverse nuisance.*
- *All works undertaken on a site or in the public road reserve must make good any damage or disruption to the public infrastructure.*

Comment:

The proposal is inconsistent with the requirement and outcomes of the control for the reasons discussed below.

- ***Protection of Infrastructure.***

Comment:

TfNSW require all structures to be removed from the road reserve.

- ***Ensuring Public Safety.***

Comment:

TfNSW have raise a concern about the impacts on pedestrian and vehicular safety both during the construction of the development and the operation of the development. As such, insufficient information has been submitted to demonstrate that public safety will be protected.

- ***Compliance with the Roads Act 1993***

Comment:

TfNSW have refused to issue concurrence under the Roads Act.

B8.6 Construction and Demolition - Traffic Management Plan

Clause B8.6 requires:

- *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 (CTMP) 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:

While a condition could be imposed requiring the submission and approval of a CTMP, concern has been raised by TfNSW requiring the potential adverse impacts during construction on the road.

As such, the proposal is inconsistent with the requirements and outcomes of the control which seek to minimise disturbance to the residential community and protect roads.

C1.1 Landscaping

Clause C1.1 requires:

- *All canopy trees, and a majority (more than 50%) of other vegetation, shall be locally native species.*
- *In all development a range of low-lying shrubs, medium-high shrubs and canopy trees shall be retained or provided to soften the built form.*
- *At least 2 canopy trees in the front yard and 1 canopy tree in the rear yard are to be provided on site. Where there are existing canopy trees, but no natural tree regeneration, tree species are to be planted to ensure that the canopy is retained over the long-term.*
- *The front of buildings (between the front boundary and any built structures) shall be landscaped to screen those buildings from the street as follows:*
 - *60% for a single dwelling house, secondary dwelling, rural workers' dwellings, or dual occupancy*
- *Screening shall be of vegetation (not built items), and shall be calculated when viewed directly onto the site.*
- *In bushfire prone areas, species shall be appropriate to the bushfire hazard.*
- *Landscaping shall not unreasonably obstruct driver and pedestrian visibility.*
- *Development shall provide for the reasonable retention and protection of existing significant trees, especially near property boundaries, and retention of natural features such as rock outcrops.*
- *Canopy trees are to be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used.*

Comment:

The proposed development is inconsistent with the requirements and outcomes of the control as discussed below:

- ***A built form softened and complemented by landscaping.***

Comment:

The proposal includes the removal of 28 mature native canopy trees with insufficient replacement planting to soften the built form.

- ***Retention of canopy trees by encouraging the use of pier and beam footings.***

Comment:

The proposal seeks to remove canopy trees and includes significant excavation as opposed to the use of pier and beam footing.

- ***Development results in retention of existing native vegetation.***

Comment:

A significant portion of the exiting native vegetation will be cleared (approximately 66%) to facilitate the substantial footprint proposed. In addition, the landscape character will change and in order to meet

the landscape requirements of PBP which requires an APZ around the dwelling.

- ***Landscaping results in the long-term retention of Pittwater's locally native tree canopy.***

Comment:

The proposal will result in the loss of a significant number of Pittwater's native tree canopy.

- ***Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species.***

Comment:

The extensive loss of trees will have unreasonable impacts on the biodiversity values of the site.

- ***Landscaping enhances habitat and amenity value.***

Comment:

Insufficient landscaping will be retained to enhance habitat and amenity value.

- ***Landscaping results in reduced risk of landslip.***

Comment:

The proposal results in extensive removal of landscaping which may have implications on landslip risk.

- ***Landscaping results in low watering requirement.***

Comment:

Insufficient replacement planting is proposal which will aid low watering requirements.

Refer to detailed discussion in the Internal Referrals Section (Landscape Officer's comments) contained within this report.

C1.3 View Sharing

Clause C1.3 requires that:

- ***The proposal must demonstrate that view sharing is achieved though the application of the Land and Environment Court's planning principles for view sharing.***

Comment

The proposal breaches the 8m height limit by 38.75% and concern has been raised from a number of neighbouring properties located to the north along Plateau Road regarding view loss as a result of the development. Insufficient information has been submitted to allow for a considered assessment of view loss in accordance with the application of the Tenacity Land and Environment Court's planning principles.

It is acknowledged that the revised plans reduced the height of the building by 500mm and the

applicant offered to install height poles. However, for the reasons discussed earlier in this report the concept plans have not been formally accepted by Council.

C1.5 Visual Privacy

Clause C1.5 requires:

- *Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).*
- *Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*

Comment:

The proposed pool and north facing habitable room windows are positioned 6.7m to the rear boundary with a separation distance to the exiting windows and primary areas of open space to the properties to the immediate north, namely No. 15 and 17 Plateau Road that exceeds 9m.

Despite the 9m separation distance concerns raised from the neighbour at No. 17 Plateau Road regarding visual privacy may be valid given that the pool elevated above their rear garden. A site visit confirmed that the southern most garden area to No. 17 Plateau Road is decked and is in use as an outdoor gym.

C1.14 Separately Accessible Structures

Clause C1.14 requires:

- *A separately accessible structure may be permitted for use as a studio, home office, workshop area, rumpus room and the like, provided that:*
 - i *it is ancillary to a dwelling;*
 - i *it is not designed for separate habitation and does not contain any cooking facilities.*

Comment:

The proposal includes two offices (both 23sqm in area) on level 1 and 2 with a studio (28.3sqm) located above on level 3, all three levels have separate showers and toilets.

Concerns has been raised in the submissions about the potential commercial / dual occupancy use of the offices / studio. Although the office / studio structure reads as a detached / separate structure it is linked to the dwelling via an underground access tunnel, stair and lift. As such, the offices / studio are not *separately accessible* and Clause C1.14 of the PDCP does not strictly apply. Should the application be supported conditions should be imposed to ensure that the offices are ancillary to the dwelling and are not used as a separate commercial or residential use.

C1.24 Public Road Reserve - Landscaping and Infrastructure

Clause C1.24 requires:

- *All existing trees over 3m in height and native vegetation within the road reserve areas are to be retained where practical. The existing trees are to be protected during the construction of works through temporary perimeter fencing that is 1.8m high.*

Comment:

The proposal includes the removal of the existing vegetation from within the road reserve and is therefore inconsistent with the requirement and outcome of the control which seeks to maintain the desirable character of the Pittwater streetscape and be consistency in the design and construction of landscape works in the road reserve. Refer to detailed discussion in the Internal Referrals (Landscape Officers comments) of this report.

D3.1 Character as viewed from a public place

Clause D3.1 requires:

- *Buildings which front the street must have a street presence and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with any design themes for the locality. Blank street frontage facades without windows shall not be permitted.*
- *Walls without articulation shall not have a length greater than 8 metres to any street frontage.*
- *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*
- *Landscaping is to be integrated with the building design to screen the visual impact of the built form. In residential areas, buildings are to give the appearance of being secondary to landscaping and vegetation. The bulk and scale of buildings must be minimised.*

Comment:

The proposal is inconsistent with the requirements and outcomes of the control as discussed below:

- ***To achieve the desired future character of the Locality.***

Comment:

The height, scale, bulk and massing of the proposed development is not considered to be low density. Given the substantial excavation and the removal of 28 mature canopy trees to allow for the extensive footprint the proposal cannot be integrated into the existing landscape character. The proposal is therefore inconsistent with the desired future character of the Bilgola Locality, refer to discussion under Clause A4.3 of this report.

- ***To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment.***

Comment:

The development fails to respond in a sensitive manner to the natural environment and will have unreasonable impacts on the biodiversity of the site.

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

Comment:

The scale and density of the development is not in keeping with the natural environment. The predominately full width coverage of the garage and driveway alters the natural landscape character of the streetscape that is dominated by trees and vegetation, and this proposal exposes a portion of the Bilgola Bends to a built form visually inconsistent with the local character.

- ***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.***

Comment:

The scale and massing of the dwelling will dominate the site to the detriment of the existing landscape value. The proposal will have an unreasonable visual impact on the character of the area.

- ***High quality buildings designed and built for the natural context and any natural hazards.***

Comment:

The design of the dwelling does not address the natural context or the environmental qualities of the site. The site is mapped as Bushfire Prone Land and, in order to comply with the landscape requirements of Planning for Bushfire Protection, an Asset Protection Zone (APZ) is required which will result in the creation of a significantly altered landscape character. The significant loss of native canopy trees will have adverse impacts in the visual character and biodiversity values of the site.

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

Comment:

As noted above, the scale of the building will dominate the site when viewed from the public domain. The dwelling includes seven (7) levels and presents as a part two / part three (3) storey structure above ground level. In addition, the streetscape will be altered with retaining walls and the garage which extend along the frontage of the site structure to a built form that is inconsistent with the local character.

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

Comment:

The proposal exceeds the 8m height limit and insufficient information has been submitted to assess view loss.

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

Comment:

The proposal will have an adverse impact on the bushland vista of Pittwater as it will not be possible to integrate the dwelling and associated structures into the landscape due to the excessive footprint, height, bulk and scale.

- ***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.

Comment:

With the exception of the public road the site does not adjoin any other public open space. As discussed throughout this report, the development fails to compliment the landscape character of Barrenjoey Road.

D3.6 Front building line

Clause D3.6 requires a 10m minimum front building line on Land zoned E4 or SP2 adjoining Barrenjoey Road.

Comment:

The proposal includes work within the road reserve and the garage / store has a nil setback to the reserve frontage. The proposal is inconsistent with the requirements and outcomes of the control as discussed below.

- ***Achieve the desired future character of the Locality.***

Comment:

For the reasons discussed throughout this report the proposal is inconsistent with the desired future character of the Bilgola Locality. The garage and associated structure, including extensive retaining walls will dominate the frontage of the site and result in a visual impact on the scenic quality of the area.

- ***Equitable preservation of views and vistas to and/or from public/private places.***

Comment:

Insufficient information has been submitted to assess view sharing principles although it unlikely that the structures at this level will impact on view sharing. Rather, given the extent of the proposed structures facing the roadway, the development would have an adverse impact to the street and, if approved would create a highly undesirable precedent for similarly scaled development to occur.

- ***The amenity of residential development adjoining a main road is maintained.***

Comment:

Insufficient information has been submitted to demonstrate that the proposal will not impact on road safety during construction which may in turn impacts on the residential amenity to dwellings that have a frontage to Barrenjoey Road.

Furthermore, it is noted that the sightline retaining walls ('wings') at either side of the crossover extend in front of the neighbouring properties such that the approval of the proposal would significantly limit the access/egress ability of both neighbouring lots should those lots be developed in the future thereby further impinging on the amenity of adjoining residential development.

- ***Vegetation is retained and enhanced to visually reduce the built form.***

Comment:

The proposal requires the extensive removal of native canopy trees. This, combined with the landscape requirements to address the APZ requirements for Bushfire Prone land, will result in limited vegetation being able to be retained to assist in reducing the bulk and visual massing of the development.

- ***Vehicle maneuvering in a forward direction is facilitated.***

Comment:

Insufficient information has been submitted to demonstrate that maneuvering in a forward direction is facilitated. Swept paths were provided in the revised documentation (Traffic Report) however, this illustrated that maneuvering could not occur solely within the site and would require the use of the road reserve which is against a reason provided by TfNSW to not grant their concurrence.

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

Comment:

The scale and density of the work proposed along the frontage is out of character with the natural environment in that it does not adequately respond to the topography and the predominantly vegetative character of the road reserve which is evident within the visual catchment.

- ***To encourage attractive street frontages and improve pedestrian amenity.***

Comment:

The proposed street frontage is inconsistent with the landscape character of Barrenjoey Road. There is no pedestrian footpath and impacts on pedestrian safety is unresolved.

- ***To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing urban environment.***

Comment:

The proposal fails to sensitively respond or reinforce characteristic and environmental qualities of the site.

D3.9 Building envelope

Clause D3.9 requires:

- ***Buildings to be contained within an envelope measured 3.5m in height from the side boundary and within a 45 degree angle.***

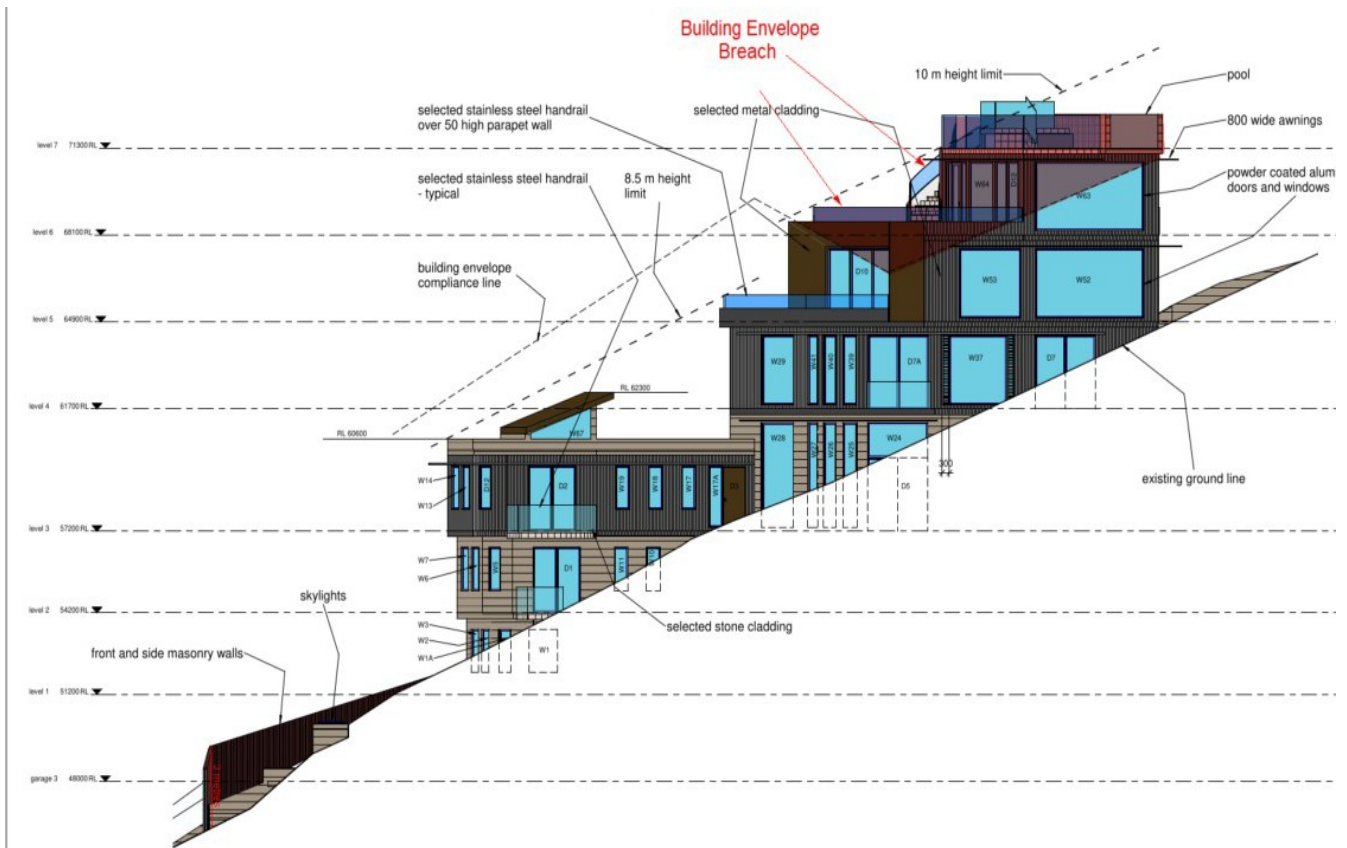
Comment:

The proposal breaches the envelope along the east and west elevation as follows:

East elevation

The envelope breaches varies between 0.7m - 4.9m in height (including the balustrades) for a length of

14.7m, refer to image below.

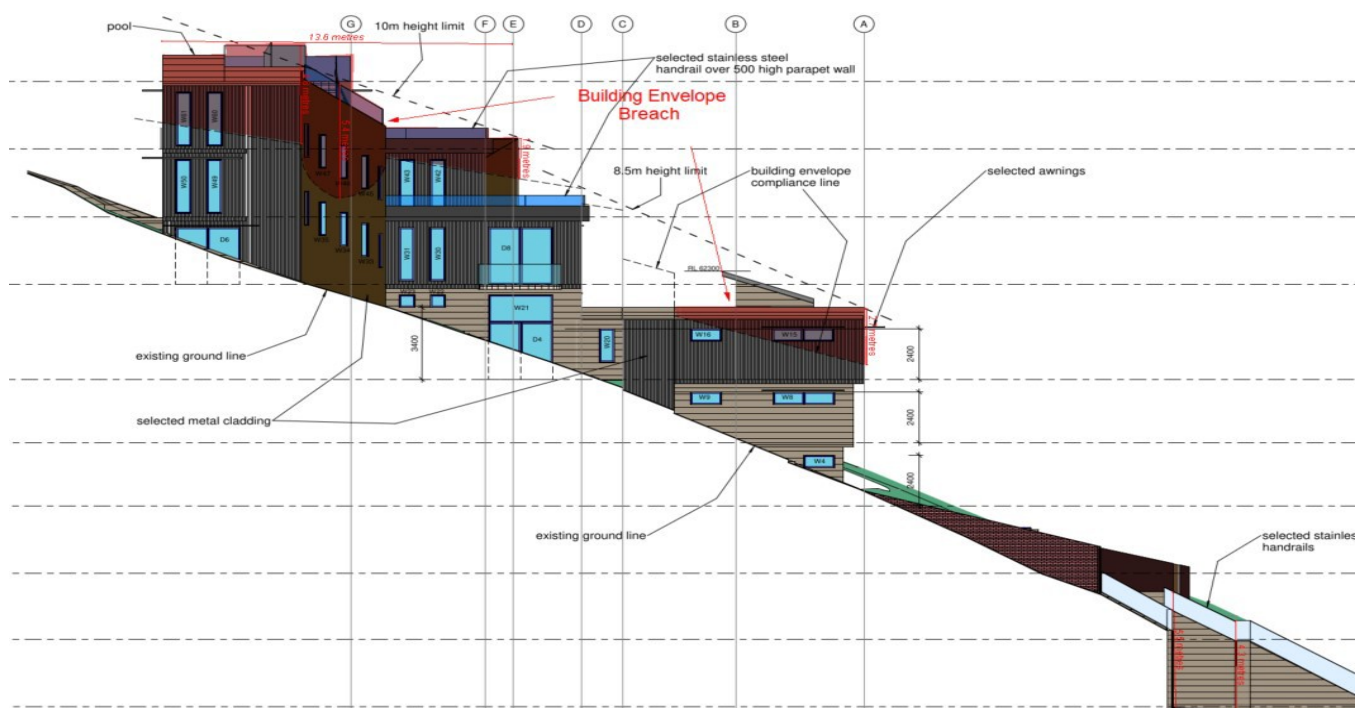


Building Envelope Breach east elevation (source Peter Downes)

West elevation

The west elevation includes two areas of envelope breach:

- studio / offices (0.5m - 2.8m in height x 7.6m in length), and
- dwelling (1.3m - 5.4m in height x 13.6m in length), refer to image below.



Building Envelope Breach West elevation (source Peter Downes)

The proposal is inconsistent with the requirements and outcomes of the control as discussed below:

- ***To achieve the desired future character of the Locality.***

Comment:

The development is not considered to be low density given its extensive footprint and the breach in the built form controls, including the envelope, which collectively contribute to an overdevelopment of the site. The proposal does not integrate into the existing landscape and does not achieve the desired future character of the Locality. Refer to discussion under Clause A4.3 of this report.

- ***To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.***

Comment:

The proposal does not enhance the existing streetscape and the scale and density of the development will dominate the landscaping to the detriment of the natural environment, particularly given that the significant removal of trees from the site are unlikely to be sufficiently replaced due to the extensive APZs that would be required.

- ***To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.***

Comment:

The development fails to respond sensitively to the natural environment. Council's Biodiversity team and Landscape Architect have both expressed fundamental concerns regarding the impact that the proposal would have on the spatial characteristics of the natural environment.

- ***The bulk and scale of the built form is minimised.***

Comment:

As noted above, the proposal represents overdevelopment as expressed through the breach of a number of built form controls, including the building envelope. The bulk and scale of the built form is assessed as excessive and the removal of vegetation from the site to enable the development would further visually exacerbate the domineering scale of the development when viewed from the public domain and, possibly from neighbouring private property.

- ***Equitable preservation of views and vistas to and/or from public/private places.***

Comment:

Insufficient information has been submitted to assess impacts on views.

- ***To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties.***

Comment:

The proposal will not give rise to unreasonable impacts on solar access. The elevated pool will result in overlooking of the rear garden of neighbouring properties.

- ***Vegetation is retained and enhanced to visually reduce the built form.***

Comment:

The proposal includes the removal of 28 native canopy trees which will reduce the ability for the built form to be integrated into the landscaping to soften the visual impact of the built form. In addition, the landscape requirements to meet the bushfire controls for the extensive built footprint will result in the creation of an altered landscape character.

D3.11 Landscaped Area - Environmentally Sensitive Land

Clause D3.11 requires 60% (413.4sqm) of the site (being the portion of the site zoned E4) to be soft landscape. An additional 6% of the site (41.39sqm) is permitted to be impervious. The proposal provides 373.3sqm (54.2%) of the site as soft landscaping with an additional 41.39sqm as recreational landscaping (paved areas and decks) thereby providing a total landscape area of 414.69sqm (60.2%). However, the proposal does not achieve the outcomes of the control, therefore the additional 6% impervious landscaping can not be included in the calculation.

The proposal fails to satisfy the requirements and outcomes of the control as discussed below:

- ***Achieve the desired future character of the Locality.***

Comment:

The proposal fails to achieve the desired future character of the Bilgola Locality as detailed throughout this report.

- ***The bulk and scale of the built form is minimised.***

Comment:

The bulk and scale of the built has not been minimised and the proposal represents over development as expressed by the numerous breaches in the built form controls.

- ***A reasonable level of amenity and solar access is provided and maintained.***

Comment:

The proposal will not result in impacts on solar access to neighbouring properties. However, insufficient information has been submitted to allow an assessment of the impacts of the development on view loss.

- ***Vegetation is retained and enhanced to visually reduce the built form.***

Comment:

The proposal results in the significant clearing of native vegetation. The excessive footprint, height, bulk and scale of the development cannot be integrated into the existing landscape to reduce its visual impact.

- ***Conservation of natural vegetation and biodiversity.***

Comment:

The proposal will result in the significant removal of natural vegetation to the detriment of the biodiversity values of the site.

- ***Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.***

Comment:

Insufficient information has been submitted to address stormwater issues.

- ***To preserve and enhance the rural and bushland character of the area.***

Comment:

The proposal neither preserves or enhances the bushland character of the site.

- ***Soft surface is maximised to provide for infiltration of water to the water table, minimise run-off and assist with stormwater management.***

Comment:

Soft surface is not minimised and the proposal fails to comply with the minimum 60% soft landscaping requirements of the control.

D3.13 Fences - Flora and Fauna Conservation Areas

Clause D3.13 applies to land in the Bilgola Locality including in Flora and Fauna Conservation Category 1 and 2. The site is within the Bilgola Locality and is mapped as being located within a Category 2

Flora and Fauna Fragmented Bushland Area.

The control requires:

a. Front fences and side fences (within the front building setback)

Front fences and side fences (within the front building setback) shall:

not exceed a maximum height of 1 metre above existing ground level, be compatible with the streetscape character, and not obstruct views available from the road.

Fences are to be constructed of open, see-through, dark-coloured materials.

Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians existing the site.

Original stone fences or stone fence posts shall be conserved.

Front fences to a maximum height of 1.8 metres may be erected on the boundary for those properties that have frontage to Bilgola Avenue, or Allen Avenue. These fences should be constructed to conform to adjoining fences, and should provide extensive landscaping incorporated into the fence or in front of the fence.

b. Rear fences and side fences (to the front building line)

Fencing is permitted along the rear and side boundaries (other than within the front building setback) to a maximum height of 1.8 metres.

e. Fencing in Category 1 and 2 areas

No front fences will be permitted.

Vegetation is preferred to any fencing.

Side and rear fences where necessary are to be constructed of dark coloured materials and shall not obstruct the passage of wildlife and shall have opening(s) with minimum dimensions of 150mm x 150mm every 5 metres accessible to ground dwelling animals.

Fencing required for the containment of companion animals should be minimised.

Comment:

The proposal includes solid masonry and timber walls / fences up to a height of 3m along the eastern side boundary and up to a height of 5.5m along the western side boundary. The walls are located within the road reserve and extend beyond the boundary of the site encroaching into the frontage of No. 519 and No. 523 Barrenjoey Road.

The proposal fails to meet the requirements and outcomes of the control as discussed in detail below:

- **To achieve the desired future character of the Locality.**

Comment:

The solid walls which extend up to 5.5m in height along the frontage and side boundaries are inconsistent with the desired future character of the Bilgola Locality.

- ***An open streetscape that allows casual surveillance of the street.***

Comment:

The proposals presents an enclosed streetscape.

- ***Fences, where provided, are suitably screened from view from a public place.***

Comment:

The solid walls would be highly visible from Barrenjoey Road and due to their excessive height, will not contribute to the character of the area.

- ***Safe and unhindered travel for native animals.***

Comment:

The extensive length and height of the solid walls will not allow for safe unhindered travel for native animals.

- ***To ensure fences compliment and conserve the visual character of the street and neighbourhood.***

Comment:

The height and materials of the solid fences along the front and side boundaries do not compliment or conserve the visual character of the area.

- ***To define the boundaries and edges between public and private land and between areas of different function.***

Comment:

The height of the solid walls is deemed to be excessive in defining the edge of the site. Furthermore, the walls are located (a) within the road reserve and TfNSW has not granted concurrence for the work and (b) along the frontage of neighbouring properties and owners consent (both currently owned by Transport for NSW) has not been provided.

- ***To contribute positively to the public domain.***

Comment:

The walls do not positively contribute to the public domain and are visually obtrusive.

- ***To enhance safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.***

Comment:

Insufficient information has been submitted to demonstrate that the walls will not impede sightlines to maintain road safety for motorists and pedestrians.

- ***To ensure heritage significance is protected and enhanced.***

Comment:

The walls will have an unreasonable visual impact on the heritage listed strand of Cabbage Tree Palms located to the south-west of the site.

- ***To ensure an open view to and from the waterway is maintained.***

Comment:

It is not expected that the walls will impact on open views to and from a waterway.

- ***To ensure native vegetation is retained.***

Comment:

The work within the reserve will result in the loss of native vegetation and contribute towards the significant loss of vegetation on the site thereby resulting in a degrading of the visual quality of the environment.

- ***To ensure any fencing provides for the safe and unhindered travel of native animals.***

Comment:

As noted above, the fencing is likely to impede safe and unhindered travel for native animal.

- ***Maintenance of the natural open character of the headland and remnant bushland areas.***

Comment:

The proposed high solid walls are inconsistent with the character of the headland and remnant bushland area.

D3.15 Scenic Protection Category One Areas

The Attributes (Control Codes) list the site as being a Scenic Protection Category One Area. Clause D3.15 requires:

Screen planting shall be located between structures and boundaries facing waterways.

Canopy trees are required between dwellings and boundaries facing waterways and waterfront reserves.

Development is to minimise the impact on existing significant vegetation.

The applicant shall demonstrate the retention and regeneration of existing native vegetation outside of

the immediate area required to carry out the development.

The development is to incorporate measures for planting and maintenance of native vegetation within those areas which are already cleared, and which are not required to be cleared to allow for the development.

The siting, building form, orientation and scale of the development shall not compromise the visual integrity of the site by removal of canopy trees along ridges and upper slopes.

The development must incorporate the use of unobtrusive and non-reflective materials and the colours of exterior surfaces shall help blend structures into the natural environment.

Applicants are to demonstrate that proposed colours and materials will be dark and earthy.

Comment:

The proposal is inconsistent with the requirements and outcomes of the control for the reasons detailed below:

- ***To achieve the desired future character of the Locality.***

Comment:

For the reasons detailed throughout this report the proposal will have an adverse impact on the desired future character of the Bilgola Locality.

- ***Achieve the desired future character of the Locality.***

Comment:

The proposal is not considered to be low impact development and fails to integrate into the existing landscape. The proposal fails to achieve the desired future character of the Bilgola Locality.

- ***To preserve and enhance the visual significance of district and local views of Pittwater's natural topographical features such as, ridges, upper slopes and the waterfront.***

Comment:

The proposal involves extensive excavation and removal of 66% of the native canopy trees. The proposal fails to preserve and enhance the visual significance of the natural topographical features of the area.

- ***Maintenance and enhancement of the tree canopy.***

Comment:

As noted above, the proposal involves the removal of a significant portion of the existing tree canopy.

- ***Colours and materials recede into a well vegetated natural environment.***

Comment:

Given the extensive footprint, height, scale and massing of the development and the need for extensive tree clearing the proposal fails to recede into a well vegetated natural environment.

- ***To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component.***

Comment:

The dwelling will dominate the site and the altered landscape will become the secondary component to the development. This is particularly relevant given that the site is Bushfire Prone and the development will be required to comply with the Bushfire landscape controls, namely an Asset Protection Zone.

- ***To preserve and enhance district and local views which reinforce and protect the Pittwater's bushland landscape and urban form to enhance legibility.***

Comment:

Due to the extensive footprint and scale of the development and extensive clearing of native bushland the proposal has the potential to have adverse impacts on district and local views.

- ***To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping.***

Comment:

Insufficient information has been submitted to fully assess view sharing requirements and principles.

- ***To ensure sites are designed in scale with Pittwater's bushland setting and encourages visual integration and connectivity to natural environment.***

Comment:

Due to the extensive footprint and scale of the development it will not integrate into the bushland setting and ensure visual integration and connectivity to the natural environment.

- ***Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.***

Comment:

For the reasons discussed throughout this report the development fails to minimise impacts on the natural environment when viewed from the public road and potentially Bilgola Beach.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$24,993 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$2,499,325.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

A clause 4.6 variation was not submitted with the original application, therefore, Council does not have the power to grant a variation to Clause 4.3 Height of Buildings development standard.

*It is noted that a Clause 4.6 variation was submitted with the amended plans received on 19 November 2021. However, for the reasons discussed in the history section the plans have not been accepted as they did not address the fundamental TfNSW concurrence issues and have not been formally lodged via the Planning Portal or accepted by Council.

Road Safety and Transport

The proposal includes work on the Barrenjoey road reserve which is zoned SP2 a classified road and as concurrence from Transport for NSW (TfNSW) has not been granted Council does not have the power to grant development consent. In addition, Transport for NSW have confirmed that insufficient information has been submitted to demonstrate that the proposal will not impact on the safety, efficiency and ongoing operation of the classified road during construction. The concept plans do not address all of the TfNSW concurrence issues and have not been formally accepted.

Height

The proposal results in the 38.7% breach in the height of building development standard. A clause 4.6

variation was not submitted with the original plans therefore Council does not have the power to grant a variation to Clause 4.3 Height of Buildings development standard.

Overdevelopment

The height, scale, massing and footprint of the development represents overdevelopment as expressed by the inconsistencies with the built form controls (building height, front setbacks, building envelope, landscape area). The proposal is not low density and fails to integrate with the existing landscape character and is inconsistent with the desired future character of the Bilgola Locality. The density of the development, including the work within the road reserve will have unreasonable visual impact on the unique qualities of the area.

Landscape and Biodiversity

The removal of 28 Mature canopy native trees to facilitate the extensive footprint will have unreasonable impacts on the ecological integrity of the Littoral Rainforest Proximity area contrary to the biodiversity and landscape requirements of the Coastal Management SEPP and the Pittwater LEP and DCP.

Insufficient information

Insufficient information has been submitted to address stormwater management, view sharing, road safety and landslip.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council , as the consent authority REFUSE Development Consent to Development Application No DA2021/1164 for the Construction of a Dwelling House including a swimming pool on land at Lot 129 DP 16902,521 Barrenjoey Road, BILGOLA BEACH, for the reasons outlined as follows:

1. Pursuant to Section 4.47 (4) of the Environmental Planning and Assessment Act 1979 Transport for NSW have not granted concurrence.
 - 2) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the State Environmental Planning Policy (Coastal Management) 2018. In particular:
 - a) Clause 11 - 'Development on land in proximity to coastal wetlands or littoral rainfore'
 - b) Clause 13 - 'Development on land within the coastal environment area'.
 - 3) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Pittwater Local Environmental Plan 2014. In particular, Clause 1.2 - 'Aims of the Plan'.
 - 4) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Pittwater Local Environmental Plan 2014. In particular, Clause 2.3(2) - 'Zone objectives and land use table'.
 - 5) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Pittwater Local Environmental Plan 2014. In particular, Clause 2.5 and Schedule 1(24) - 'Use of certain land in Zone SP2 Infrastructure intended to be acquired for public purposes'.
 - 6) Pursuant to Section 4.15(1)(a)(i) the proposed development is inconsistent with the provisions of the Pittwater Local Environmental Plan 2014. In particular:
 - a) Clause 4.3 – 'Height of Buildings';
 - b) Clause 4.6 - 'Exceptions to Development Standards';
 - c) Clause 5.10 - 'Heritage Conservation';
 - d) Clause 7.2 – 'Earthworks';
 - e) Clause 7.6 - 'Biodiversity Protection'
 - f) Clause 7.7 - 'Geotechnical Hazards'; and
 - g) Clause 7.10 - 'Essential Services'.
 - 7) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Pittwater 21 Development Control Plan. In particular:
 - a) Clause A4.3 - 'Bilgola Locality';
 - b) Clause B1.2 - 'Heritage Conservation';
 - c) Clause B4.4 - 'Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corrid'
 - d) Clause B4.22 - 'Preservation of Trees and Bushland Vegetation';
 - e) Clause B6.1 - 'Access Driveways and Works on the Public Road Reserve';
 - f) Clause B6.2 - 'Internal Driveways';
 - g) Clause B6.5 - 'Access Driveways and Works on Road Reserves on or Adjacent to a
 - h) Clause B6.7 - 'Transport and Traffic Management';

- i) Clause B8.1 - 'Construction and Demolition: Excavation and Landfill';
- j) Clause B8.5 - 'Construction and Demolition: Works in the Public Domain';
- k) Clause B8.6 - 'Construction and Demolition: Construction Traffic Management Plan';
- l) Clause C1.1 - 'Landscaping';
- m) Clause C1.3 - 'View Sharing';
- n) Clause C1.5 - 'Visual Privacy';
- o) Clause D3.1 - 'Character as Viewed from a Public Place';
- p) Clause D3.6 - 'Front Building Line';
- q) Clause D3.9 - 'Building Envelope';
- r) Clause D3.11 - 'Landscape Area - Environmental Sensitive Land';
- s) Clause D3.13 - 'Fences - Flora and Fauna Conservation Areas';
- t) Clause D3.14 - 'Construction, Retaining Walls, Terracing and Undercroft Area'; and
- u) Clause D3.15 - 'Scenic Protection Category One Areas'.

8) Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to enable the assessment of the application.

9) Pursuant to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 the proposal is not in the public interest. In particular:

- a) The development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective zoning.
- b) Having regard to the public submissions and the adverse impacts of the proposed developme

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.