

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0303
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Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 5 DP 222134, 337 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Proposed Development:	Demolition of existing structures, removal of trees and subdivision of one lot into three lots.
Zoning:	C4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Sean Clive Gartner

Application Lodged:	27/03/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	29/08/2024 to 26/09/2024
Advertised:	29/08/2024
Submissions Received:	28 (from 23 households)
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 350,000.00
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EXECUTIVE SUMMARY

Development Application DA2024/0303 seeks consent for demolition work, removal of six (6) trees, and torrens title subdivision of one (1) lot into three (3) lots, including the construction of the internal driveway and stormwater works. The proposed subdivision is supported by concept plans of three (3) dwellings on each of the proposed allotments. The application is Integrated Development under the Water Management Act.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the application having generated more than ten (10) unique submissions. A total of twenty three (23) submissions were received by Council during the notification period specified for the development by the Northern Beaches Community Participation Plan.

Concerns raised in the objections predominantly relate to tree removal and environmental / biodiversity impacts, including impacts on the watercourses and riparian corridors. Concerns were raised during the preliminary assessment in respect to traffic, access, parking and road / pedestrian safety, stormwater and drainage issues, geotechnical, landslip and structural issue, potential impacts on Aboriginal heritage, excessive scale of indicative dwellings and impacts on residential amenity, including; visual and acoustic privacy, and the general non-compliance with the applicable planning controls.

The application was amended, with the development reducing the footprint of the indicative dwellings and the extent of the excavation with increased setbacks to the watercourses. The amended development also retains a greater extent of trees on the site.

The height, scale, bulk and massing of the concept dwellings have been amended to demonstrate that three (3) dwellings can be accommodated on the proposed allotments, with no unreasonable impacts on neighbouring amenity or the environment. The concept dwellings have been found to be generally compliant with the applicable Pittwater LEP and Pittwater DCP built form controls.

Despite the amendments, the site is assessed as being unsuitable for the development due to insufficient information being submitted to satisfy issues associated stormwater drainage and that safe vehicular access can be provided to each of the allotments. Further and despite requests, insufficient information has been submitted to allow Council to properly consider the effects of the proposal on any potential Aboriginal heritage that maybe present on site. Finally, owners consent has not been provided for the traffic light signal on the neighbouring site, with the traffic light necessary to for the safe movement of vehicles.

In summary, this report concludes with a recommendation that the NBLPP refuse the development application, for the reasons detailed in this report.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for demolition of all existing structures, removal of six (6) trees, and torrens title subdivision of one (1) lot into three (3) lots. In detail the proposal includes:

Lot 1: 1,197m² exclusive of access handle

Lot 2: 825m² exclusive of access handle

Lot 3: 945m² exclusive of access handle

Construction of internal driveway and associated infrastructure / stormwater works.

Concept plans have been submitted which provide details of three (3) dwellings as detailed below:

Lot 1: four (4) bedroom three (3) level dwelling with integrated double garage, comprising:

- lower floor - living room, two (2) bedrooms, bathroom, laundry, internal stairs and external on site detention (OSD) and Rainwater Tank (RWT)
- ground floor - living, dining and kitchen with adjoining deck, bedroom, media room, bathroom, internal stairs and entry and double garage
- first floor - bedroom with ensuite and WIR

Lot 2: four (4) bedroom, plus study three (3) level dwelling with integrated double garage, comprising:

- lower floor - living room, two (2) bedrooms, two (2) decks, two (2) bathrooms, internal stairs and external OSD and RWT
- ground floor - living, dining and kitchen with adjoining deck, media room, bathroom, laundry, internal stairs, entry and double garage with storage
- first floor - two (2) bedrooms both with ensuite and WIR, study and internal stair

Lot 3: four (4) bedroom three (3) level dwelling with integrated double garage, comprising:

- lower floor - TV and games room, laundry, bedroom with ensuite, WIR and deck and internal stair (note: the OSD and RWT sits below the ensuite)
- ground floor - living, dining and kitchen with adjoining deck, bedroom, study, bathroom, internal stairs and entry and double garage and visitors parking
- first floor - two (2) bedrooms both with ensuite and WIR to bedroom 1 and internal stair

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 C4 Environmental Living
 Pittwater Local Environmental Plan 2014 - 4.1 Minimum subdivision lot size
 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 - A1.7 Considerations before consent is granted
 Pittwater 21 Development Control Plan - A4.3 Bilgola Locality
 Pittwater 21 Development Control Plan - B1.4 Aboriginal Heritage Significance
 Pittwater 21 Development Control Plan - B2.2 Subdivision - Low Density Residential Areas

Pittwater 21 Development Control Plan - B3.1 Landslip Hazard
 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 - B6.3 Off-Street Vehicle Parking Requirements
 Pittwater 21 Development Control Plan - B6.7 Transport and Traffic Management
 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 - C1.4 Solar Access
 Pittwater 21 Development Control Plan - C1.5 Visual Privacy
 Pittwater 21 Development Control Plan - C1.6 Acoustic Privacy
 Pittwater 21 Development Control Plan - C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities
 Pittwater 21 Development Control Plan - C4.3 Subdivision - Transport and Traffic Management
 Pittwater 21 Development Control Plan - C4.6 Service and delivery vehicle access in subdivisions
 Pittwater 21 Development Control Plan - C4.7 Subdivision - Amenity and Design
 Pittwater 21 Development Control Plan - D3.6 Front building line
 Pittwater 21 Development Control Plan - D3.7 Side and rear building line
 Pittwater 21 Development Control Plan - D3.9 Building envelope

SITE DESCRIPTION

Property Description:	Lot 5 DP 222134 , 337 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Lower Plateau Road.</p> <p>The site is an irregular shaped battle-axe lot with a frontage of 4.7 metres along Lower Plateau Road. The battle-axe handle has a width of 4.57 metres to the Lower Plateau Road frontage, and the substantive portion of the lot has a width of approximately 46.2 metres and depth of approximately 65.5 metres. The site has a surveyed area of 3,410m².</p> <p>The site is located within the C4 Environmental Living zone from the Pittwater LEP and is mapped as Bilgola Locality, specifically the Plateau area, within the Pittwater 21 DCP. The site accommodates a part two part three storey dwelling positioned to the east of the site, with an attached double garage, swimming pool to the rear (north), sheds and pond. A 3.0 metres wide, 38.1 metres long steep internal one way driveway provides access to the existing dwelling from Lower Plateau Road and is located between No. 335 and No. 339 Lower Plateau Road.</p> <p>The site has a significant level difference of 32.36 metres</p>

between the Lower Plateau Road frontage (RL91) and the north-western rear corner of the site (RL58.64). Two (2) watercourses dissect the site, one either side of the house, that join and cross the boundary near the north-western rear corner. The western half of the site is steep, heavily vegetated and has rock outcrops.

The site is mapped as having the following environmental constraints:

- Flood prone land
- Watercourses
- Geotechnical hazard
- Biodiversity, flora and fauna category 1 and 2 and wildlife corridor
- Potential aboriginal heritage significance
- Bilgola scenic protection - category 1

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by detached one and two storey dwellings set in landscaped gardens. Thirteen (13) properties, with frontages to either Lower Plateau Road, Yarrabee Place or Stromboli Place, adjoin the site boundary.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Application DA2023/0511 for Demolition of existing structures, removal of trees and subdivision of one lot into three lots was withdrawn on 03/08/2023. It is noted that the Request for Further Information (RFI) letter that was issued for that DA raised issues with insufficient information to address the following:

- Biodiversity - a flora and fauna assessment is required
- Transport - issues with the design of the the access handle width and grade
- Stormwater management
- Flooding
- Landscaping and tree loss, impacts on natural features including water course and rock outcrops
- The need for an indicative building layout

Note: The referral from the Aboriginal Heritage Officer confirmed that the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites. A preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional was requested in the referral, but never provided.

Application History.

On 29 April 2024, an updated Flora and Fauna assessment (Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands, September 2023 - April 2024) was submitted to Council for consideration.

On 13 June 2024, the applicant was sent a letter which raised the following issues with the proposal:

- Impact on the natural environment - The arrangement of proposed lot boundaries and indicative building layout relative to the natural watercourse will have unreasonable impacts on the natural environment and is therefore inconsistent with the objectives of the C4 Environmental Living Zone.
- Built form - The concept plans illustrate that the height of all three (3) future dwellings exceed the maximum 8.5m height limit by between 0.3m (3.52%) and 2.5m (29.4%), as such, the proposal is inconsistent with the requirements and objectives of CI 4.3 - Height of buildings. The concept plans also confirm that the dwellings breach the side setbacks and building envelope control, as such, the bulk and massing of the concept dwellings are considered to be excessive and inconsistent with the desired future character of the Bilgola Locality and the scenic quality of the area and area.
- Essential services - Council cannot be satisfied that the proposal provides adequate stormwater drainage and suitable safe vehicular access, as such, the proposal is inconsistent with CI 7.10 Essential Services of the PLEP and numerous Pittwater 21 DCP controls relating to traffic, access and stormwater.
- Aboriginal Heritage - A due diligence report has not been submitted, therefore, Council cannot be satisfied that proposal achieves compliance with CI 5.10 Heritage Conservation of the PLEP and clause B1.4 of the Pittwater 21 DCP.
- Concern was raised in respect the following inconsistencies with the Pittwater 21 DCP subdivision controls, CI B2.2 and C4.1: the slope of the lots exceeding 30%, lot boundaries located across the southern watercourse and the concept building footprint for lot 1 being located over the northern watercourse.
- Amenity - the concept plans suggest that there will be unreasonable impacts on amenity due to overlooking.

On 21 August 2024, the applicant uploaded the following information on the Planning Portal:

- Amended concept plans which including the following modifications:
 - A reduction in the footprint of all three (3) the dwellings and a reduction of the floor plates to the upper floors.
 - Increased side setbacks, including a 1.8 metres increase setback of dwelling one (1) to the northern boundary.
 - Increase in the setbacks of dwelling three (3) to the southern watercourses from 1.48 metres to a minimum of 3.55 metres and an increase in the setback of dwelling one (1) to the northern watercourse from 0.40 metres to 2.50 metres.
 - Reduction in the height of all dwellings to comply with the 8.5 metres height limit.
 - Deletion of some habitable windows and the inclusion of obscure glazing, high level windows and privacy screens to windows and elevated decks.
 - Reduction in the extent of excavation.
- A minor relocation of proposed line of subdivision between the lots to address issues with Clause B2.2 - Subdivision - Low Density Areas of the PDCP.
- An increase in the length of the tapered passing near the site entrance
- Amended stormwater plans
- Additional information / amended reports, including:
 - Swept path analysis.
 - Addendum to the flood report.

On 22 August 2024, the application was re-notified for a further 28 days in accordance with the Community Participation Plan, and re-referred to all Referral Officers for further consideration.

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	There are no current draft environmental planning instruments.
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	<u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters are capable of being addressed via a condition of

Section 4.15 Matters for Consideration	Comments
Assessment Regulation 2021 (EP&A Regulation 2021)	<p>consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to biodiversity, tree removal, impacts on the watercourse and the riparian corridor, Aboriginal heritage, stormwater, access and parking, built form (height, setbacks, building envelope) and amenity impacts (privacy) and inconsistency with the relevant planning controls.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter is capable of being addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter is capable of being addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</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>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development due to insufficient information been submitted to satisfy Council that essential services, including safe access and stormwater and drainage, can be provided and that there will be no unreasonable impact on any potential Aboriginal heritage.

Section 4.15 Matters for Consideration	Comments
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	<p>The proposal is not in the public interest due to insufficient information being submitted to satisfy Council that the proposal will not have an unreasonable impact on the potential heritage significance of the place and any Aboriginal object. As such, the proposal is contrary to the relevant requirement(s) of the controls relating to Aboriginal heritage, namely Clause 5.2 Heritage Conservation and Clause 7.2 Earthworks of the Pittwater LEP, Clause B1.4 - Aboriginal Heritage and Clause B2.2 Subdivision - Low Density Residential Areas of the Pittwater 21 DCP.</p> <p>The proposal is not in the public interest due to insufficient information has being submitted to satisfy Council that the proposal will provide a safe access noting the steep, narrow and long driveway which relies on a traffic control system. Further information has been submitted to satisfy Council that adequate stormwater and drainage can be provided.</p> <p>As such, this assessment has found the proposal to be contrary to the relevant requirement(s) of the controls relating to vehicular access including provisions of Clause 4.1 (e) Minimum subdivision lot sizes, Clause 5.10 (8) (a) and (b) Heritage Conservation, Clause 7.2 (f) and (i) Earthworks, Clause 7.7(a) Geotechnical hazards, Clause 7.10 (d) and (e) Essential Services of the Pittwater LEP and the provisions of A4.3 Bilgola Locality, Clause B1.4 Aboriginal Heritage Significance, Clause B2.2 Subdivision - Low Density Residential Areas, Clause 5.15 Stormwater, Clause B6.1 Access driveways and Works on the Public Road Reserve, Clause B6.2 Internal driveways, Clause B6.7 Transport and Traffic Management, Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities, Clause C4.6 Service and delivery vehicle access of the Pittwater 21 Development Control Plan 2014.</p> <p>Finally, owners consent has not been provided for the installation of the traffic signal located on the neighbouring site.</p> <p>Due to the inconsistencies with the controls 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 expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 29/08/2024 to 26/09/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 28 submission/s from:

Name:	Address:
Emma Jayne Withers	42 Mariposa Road BILGOLA PLATEAU NSW 2107
Ms Frances Louisa Colley	1 Loombah Street BILGOLA PLATEAU NSW 2107
Mrs Susan Joy Johnson	42 York Terrace BILGOLA PLATEAU NSW 2107
Mr Andrew Martin Porter	15 Georgia Lee Place CLAREVILLE NSW 2107
Mr Christopher John Malberg	301 Hudson Parade CLAREVILLE NSW 2107
Mr Graham Sydney Davis	291 Hudson Parade CLAREVILLE NSW 2107
Alejandro Norberto Machuron	331 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Dr Tatjana Kilo	331 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Mr Daryl John O'Connor	39 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Mrs Emilie Kate Field	10 Yarrabee Place BILGOLA PLATEAU NSW 2107
Mr Graeme George Emerson	304 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Mr Graham Eric Geoffrey Holford	11 Yarrabee Place BILGOLA PLATEAU NSW 2107
Mr Mervyn Parry Butler Shearman	302 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Mr Ronald William Mattiske	6 Lisa Place BILGOLA PLATEAU NSW 2107
Mr Richard Lloyd Holder	PO Box 125 AVALON BEACH NSW 2107
Withheld	BILGOLA PLATEAU NSW 2107
Mrs Sarah Elizabeth Blundell	335 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Ms Tania Julieann Mullis	9 Yarrabee Place BILGOLA PLATEAU NSW 2107
Mrs Gabrielle Anne Angles	12 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Mr Alexander Simon Cockerton	293 Hudson Parade CLAREVILLE NSW 2107
Ms Suzanne Helen Bell	263 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Mrs Claire Elizabeth O'Connor	39 Bilwara Avenue BILGOLA PLATEAU NSW 2107
Lara Swanson	339 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Corona Projects Pty Ltd	Po Box 1062 BONDI JUNCTION NSW 1355
Lloyd Holder	1 Lisa Place BILGOLA PLATEAU NSW 2107
Mr Benjamin Arnold Blundell	6 / 1 Bilambee Avenue BILGOLA PLATEAU NSW 2107
Mrs Margaret Irene Holford	11 Yarrabee Place BILGOLA PLATEAU NSW 2107

Name:	Address:
Mrs Chelsey Baker	24 Old Barrenjoey Road AVALON BEACH NSW 2107

A total of 23 unique submissions have been received. In accordance with the Community Participation Plan (CPP), *all submissions received by or on behalf of the same dwelling will be considered as a single (unique) submission.*

- **Tree loss impact on biodiversity**

The submissions raised concerns that the site is of significant environmental value and the removal of 93 trees, including high and medium retention value trees, will result in unreasonable environmental impacts contrary to the objectives of the C4 Environmental Living zone.

The environmental reports, including the BDAR, are biased, limited and general and the reports have inconsistencies. It is questioned if night studies completed. All trees, whether native or not, co-exist providing an environment which benefits other species. All mature tree provide habitat to birds, including threatened and sensitive species, possums and other animals in addition to shade and shelter that will be destroyed if removed. Loss of tree canopy impacts on the natural amenity of the area and increases issues in respect to climate change

Comment:

The amended development seeks consent for the removal of six (6) prescribed trees, a further twenty (20) prescribed trees will be required to be removed to accommodate the indicate building footprints of the three (3) dwellings, however, this will be subject to a further development application(s) for the detailed design of the dwellings. The application, as amended is supported by Council's Landscape Officer, subject to conditions, including the replacement planting of twelve (12) locally native canopy trees with a minimum mature height of 8.5 metres.

The concept plans have been amended proposal to reduce the excavation and footprint associated with each dwelling. The dwellings are relocated away from the watercourse which reduces the environmental impacts on the watercourse and riparian creek through native vegetation rehabilitation. The proposal is consistent with the objectives of the C4 Environmental Living Zone and Council's Biodiversity Officer has no objections, subject to recommended conditions.

The environmental reports have been prepared and certified by qualified experts and, as amended, have been assessed as acceptable, refer to the detailed discussion under the referral section of this report.

- **Watercourse / stormwater / landslip**

The submissions raises concerns that the site is important as it has many natural features including two creeks, dense vegetation and rock outcrops. The site is also heavily constrained being extremely steep and located within a Geotechnical and flood hazard area. It is noted that areas around riverbanks are susceptible to landslide and erosion and the site and surrounding area is subject to landslip. The submissions note

that watercourse is already at capacity, the proposal to remove a significant number of trees and construct roads and hard surfaces has the potential to cause further destabilisation of the ground during periods of heavy rain with unreasonable impacts on neighbouring properties and public safety

Comment:

As above, the concept dwelling plans have been amended to relocate the footprint of the dwellings away from the watercourses which reduces the extent of tree removal to the satisfaction of Council's Riparian Officer, Water Management Officer and Flooding Officer, subject to conditions.

The application is supported with a geotechnical report which concludes that the proposal will not result in unreasonable geotechnical impacts, including landslide. Council's Development Engineer has reviewed the report and raises no geotechnical issues with the proposed subdivision.

Insufficient information has been submitted to satisfy Council that the stormwater design is sufficient to address concerns raised in the submission and shared by Council's Development Engineer, refer to the detailed discussion in the referral section of this report.

- **Footprint of dwellings / visual impact on landscaped character and locality**

The submissions raise concern that the proposal will result in visual impacts to neighbouring properties due to the excessive bulk and scale of the dwellings and a change to the landscape character of the locality. The submissions raised concerns that the proposed footprint of dwellings is excessive, in particular lot 3 which would result in the clearing of an untouched vegetated area which benefits flora and fauna. The dwelling on lot 3 is proposed to be constructed over the waterway and will result in an irreparable impact on the bank of the riverway.

The current view of trees and vegetation from neighbouring properties will be replaced with a view of large dwellings which will change the landscape character of the area and result in an unreasonable visual impact on the scenic value of the Locality. Lot 3 ignores the quality and naturalness of the area and will allow development that will adversely affect the environment for adjoining properties. The bunching together of three dwellings with attendant driveways, hard surfaces areas and creek crossings is out of character with the pattern of development on the adjoining lots.

The proposal is contrary to the the planning control that prohibits the subdivision of land if the allotments intended to be created have a slope in excess of 16:7 degrees (30%)

Comment:

The concept dwelling plans have been amended to reduce the footprint of the dwellings and relocate the buildings away from the watercourses. In addition, the height, bulk and scale of the indicative dwellings have been reduced to comply with the built form Pittwater LEP and Pittwater DCP controls. The amended concept plans demonstrate that the height, scale and density of the three dwellings will not have an adverse impact on the landscape character of the locality, the scenic quality of the area or result in any unreasonable visual impacts on neighbouring properties. Retained and replacement planting along the site boundaries will soften the visual impacts of the built form from neighbouring properties and reduce impacts on

current views / outlook.

As discussed under the DCP's Clause B2.2, lot 1 has a maximum slope of 31.35%, the minor breach of the 30% slope control, on merit, is assessed as acceptable noting that this is not a development standard and the proposal complies with the outcomes of the control, subject to conditions.

- **Traffic, access and infrastructure**

The submissions raised concerns that Lower Plateau Road lacks on street parking and footpaths, the addition of two (2) extra dwellings will add to traffic congestion and road and pedestrian safety issues. In addition, the location of the 6-12 additional waste bins on the limited frontage will add to further congestion and road safety issues, the traffic report should consider waste collection. The feasibility of the complicated entry system with traffic light system is questioned with concerns about queuing on the street, system malfunction / mechanical failure and maintenance issues and road safety issues. A sight line assessment has not been submitted. It is questioned how emergency services will access the site. There is a need for visitor car parking, again noting that there is no on-street car parking and consideration needs to be given for boats or caravans leaving the property requiring passing space

Comment:

The proposed car parking complies with the numerical Pittwater DCP requirements and visitor parking is provided to each lot. However, insufficient information, including sight line assessment, to satisfy Council that the development can provide safe vehicular access to future residents, visitors, service and emergency vehicles noting the steep, narrow, single lane driveway which relies on a traffic control system. Furthermore, owners consent has not been provided for the installation of the traffic light on the neighbouring property and Council does not have the power to approve the development without this consent. The proposal therefore has the potential to have unreasonable impacts on road and pedestrian safety and is recommended for refusal.

Subject to conditions, Council's Biodiversity, Water Management Officer and Riparian Officer have raised no issues with respect of impacts on the riparian corridor given the location of the suspended driveway between lot 2 and 3 over the watercourse. In addition, existing and future landscaping along the site boundaries will reduce the visual impact of the structure from neighbouring properties and given the shape and topography of the battle-axe allotment there will be no visual impact on the streetscape or the scenic quality of the locality.

The proposed driveway will require the removal of trees which have been assessed by Council's Landscape Officer as acceptable.

- **Aboriginal Heritage**

The submissions raised concerns that the proposal has the potential to have adverse impacts on cultural heritage. There is a likelihood of Indigenous heritage on the site that requires investigation and it is noted that sharpening grooves could be present deep under leaf litter, indicating the presence of Indigenous cultural sites. Failure to adequately assess and mitigate the potential impacts on Indigenous heritage would constitute a breach of legal obligations and ethical responsibilities. One submission notes that the former Aboriginal Parks and Wildlife Officer has the updated site records showing a shelter mark in this area

Comment:

The Aboriginal Heritage Officer has confirmed that there are know Aboriginal heritage sites in the area and has requested a preliminary due diligence report to provide information on what potential Aboriginal heritage issues exist on the land and recommendations for any further action if required. The report has not been submitted, therefore, there is an absence of information to be satisfied that the proposal will not impact any potential Aboriginal Heritage items which may be located on the site.

- **Construction impacts - traffic and noise**

The submissions raised concerns that the proposal has not consider construction impacts in terms of traffic generated during construction, including concrete trucks, cranes and delivery trucks. There has been no considered of the construction impacts on neighbouring amenity such as noise disturbance and dust pollution

Comment:

Conditions can be imposed requiring the submission and approval of a Construction Traffic Management Plan prior to the issue of a Construction Certificate. In addition, standard conditions can be imposed restricting the hours of construction and requiring compliance with dust pollution measures to ensure construction impacts will not unreasonable impact neighbouring amenity.

- **Structural impacts - retaining wall**

The submissions raised concerns about the impacts of the development on the shared retaining wall along the common boundary which is currently holding up the driveway on the subject site. It is noted that the retaining wall is already collapsing in a number of places. Concern is raised that the driveway, which is already very narrow and damaged, will not be able to support the significant weight loads associated with this development, especially during construction. This poses a serious risk of both damage to private property, but also poses a serious risk of injury or death, as the retaining wall is adjacent to garden and lawn used by family members, including young children

Comment:

The application is supported with a geotechnical report which notes that *the mortared sandstone block retaining wall along a potion of the southern side of the driveway was observed to be in a good condition and up to 1.0 metres in height.* The proposal seeks to retain 24.0 metres of the the existing driveway including the portion near the site entrance from Lower Plateau Road which adjoins the neighbouring properties. The amended plans extend the length of the tapered passing bay at the top of the driveway next to northern and southern boundaries. There is no reference on the amended plan suggesting the removal of the retaining wall and conditions requiring the retention of the retaining wall and pre and post development dilapidation report could be imposed. Any consent would also require compliance with the recommendations of the geotechnical report and additional structural conditions.

Despite this, the proposal is not supported due to insufficient information to satisfy Council that safe access can be provided. Furthermore, the increases in the length of the passing bay next to the boundaries of No. 335 and No. 339 will result in a nil setback to the neighbours with the traffic light being relocated outside the property boundary and no owners consent being

provided for such work to occur.

- **Amenity impacts - visual and acoustic privacy, and outlook**

The submissions raises concerns that the site adjoins thirteen (13) properties and the existing dense landscaping, which currently provides a screen, will be removed resulting in unreasonable impacts on the amenity of neighbours in terms of overlooking to areas of private open space, including a swimming pool. Concern is also raised in respect to overshadowing caused by the new dwellings. The intensification of the use of the site will also result in amenity impacts due to the noise and pollution associated with vehicles waiting at the traffic lights.

Comments:

As above, amended concept plans have been submitted which demonstrates that the height, bulk and scale of the proposed dwellings is compliant with the built form controls, therefore, it is not anticipated that there will be any unreasonable visual impact on neighbouring properties. Existing and new planting along the boundaries of the site will help soften the built form and provide a screen to neighbouring properties to help protect amenity. The concept dwelling plans have been amended to address issues raised in respect of impacts on visual privacy including an increase in the separation of the dwellings, deletion of windows and inclusion of privacy measures, such as, high level windows, the use of obscure glazing and the installation of privacy screens to the perimeter of elevated balconies and some habitable room windows. In addition, existing and proposed landscaping at the boundaries will help ensure privacy is maintained.

Given the limited scale of the development, and separation to adjoining properties, it is not expected that the proposal will result in unreasonable impacts on neighbouring amenity in terms of acoustic and pollution impacts with vehicles using the driveway. Despite this, insufficient information has been submitted to which demonstrates that safe vehicular access can be provided. The traffic signal system cannot be relied upon to address issues with the gradient, narrow long driveway and visibility and owners consent has not been provided for work on the neighbouring site. As such, the application is recommended for refusal.

- **Essential services**

The submissions raised concerns about the impacts on essential services, such as sewerage issues

Comment:

Conditions could be included to address ensure there are no impacts on existing essential services. However, the proposal fails to demonstrate that suitable safe access and stormwater and drainage can be provided, therefore, the proposal is inconsistent with Clause 7.1 Essential Services of the Pittwater LEP and is not supported.

- **Non-compliance with planning controls**

The submissions raise a concern that the proposal is contrary to the provisions and objectives of the following PLEP controls, C1.7.4 Earthworks, C1.7.6 Biodiversity, C1.7.7 Geotechnical Hazard, C1 7.10 Essential services and the following PDCP controls: B4 controls relating to the natural environment, B5 Water management, B6 access and parking and D3 Bilgola Locality

Comment:

A detailed assessment of the proposal against the relevant control is provided below.

In summary, the proposal as amended complies with the objectives of the C4 Environmental Living zone and the controls relating to the natural environmental. However, due to insufficient submission being submitted to satisfy Council that the safe access, stormwater and drainage can be provided and there will be unreasonable impact on Aboriginal heritage the proposal is not supported due to inconsistencies with the applicable controls. As such, the site is considered to be unsuitable for the proposed development.

- **Public interest**

The submissions raise concerns that approval of the proposal is not in the public interest

Comment:

It is accepted that the development is not in the public interest due to insufficient information to satisfy Council that adequate access and services can be provided and there will be no adverse impact on aboriginal heritage.

- **Precedent**

The submissions raise concerns that approval of the proposal will set an undesirable precedent for other applications

Comment:

Each application is assessed on its merits yet it is agreed that due to insufficient being submitted to address the controls approval would set an undesirable precedent for other applications.

- **Devalue property**

Comment:

This is not a matter for consideration under Section 4.15 of the EPA Act 1979.

Amended plans and additional information was received on 21 August 2024. In accordance with the Community Participation Plan (CCP), the Integrated development application was re-exhibited (advertised and notified) on 29 August 2024 for a further 28 days.

Eleven (11) additional submissions have been received from persons that made submission to the original application and three (3) new unique submission have been received. The submissions reiterate the issues and concerns detailed above and raise the following new issues:

- **Tree removal**

Concern is expressed about the revised Landscape referral which suggested the approval to removal of the high Retention Value tree (Tree 97 - *Angophora costata*: Smooth-barked apple). Trees are classified as high Retention Value for their protection and the classification is a legally binding and should be adhered to. Being a *High Retention Value tree* implies it should be protected and not felled due to land division purposes. It is a locally indigenous species and lives for over 100 years and is part of the local ecosystem, with many species relying on it for food and shelter. Such removal contravenes principles of sustainable development and undermines efforts to maintain local ecological integrity

A further submission acknowledges that the amended application seeks the removal of 6 trees associated with the driveway and stormwater works, yet the proposal may results in the loss of approximately 200 trees being removed once the development applications for the future dwellings are lodged which will result in unreasonable impacts on biodiversity of the area and the landscape character. A detailed assessment of the building envelopes in respect of tree loss is therefore required at this sub-division stage. Furthermore the application is relying on replacement panting which cannot be guaranteed. The owner could choose to remove the remaining 167 exempt trees (67% of the site trees). This lack of safeguard poses a risk to local wildlife, which does not distinguish between native and non-native tree species for habitat purposes

Comment:

As above, the subdivision application seeks consent for the removal of six (6) prescribed trees. A further twenty (20) prescribed trees are to be removed to accommodate the indicative building footprints, including one (1) of these is high retention value, twenty three (23) are medium retention value and two (2) are low retention value. Consideration has been given the removal of all these trees as part of the subject subdivision application, however, approval for the removal of the additional twenty (20) trees will be subject to separate development applications for the detailed design of the dwellings.

A total of sixty eight (68) prescribed trees are not impacted by the subdivision or dwelling footprints and are to be retained including twenty-two (22) of high retention value, forty-one (41) of medium retention value, and five (5) low retention value.

All of the 167 exempt trees are able to be removed without Council's consent as permitted in the Pittwater DCP. Replanting is proposed at a suitable quantity, and more importantly, the quantity proposed for replanting is in consideration of existing prescribed trees location and canopy coverage. As the majority of trees proposed for removal are exempt (generally exotic/invasive species), the recommended tree planting will serve to improve canopy values on site by replanting with locally native species that provide better wildlife habitat.

The removal of vegetation, which is exempt, cannot be considered as part of the application. Despite this, the Flora and Fauna assessment has considered the impacts of the application and provided recommended impact mitigation measures, all of which have been conditioned. Additionally, a condition is recommended for ecologist supervision of tree clearance works to ensure that any wildlife are safely relocated to an appropriate location on site. Any tree hollows will be relocated to trees required to be retained.

As above, concept plans have been submitted which show the indicative arrangement of dwelling. The concept plans have been as amended to minimises the impact to the natural

environment including the watercourses. The proposal complies with the objectives of the C4 Environmental Living Zone and the landscape open space, per lot, exceed the 60% minimum requirement. The quantity of retained prescribed trees provide a softening of built form and will not unreasonable impact on the special landscape character of the area with many of the high and medium retention trees being retained along boundaries, which will help ensure privacy is maintained.

- **Wildlife monitoring**

The submissions raise a concern that there is no provision for monitoring and quantifying injured or displaced wildlife resulting from tree removal and construction. The Northern Beaches Biodiversity's role in protecting native species and habitats appears insufficiently addressed. The absence of measures such as the construction of possum boxes for displaced animals further exacerbates this issue.

Comment:

The application has been considered by Council's Environmental Officers in accordance with the applicable controls and conditions have been recommended to ensure compliance with recommendations of the Flora and Fauna assessment at the appropriate stage of development. Furthermore, conditions relating to the protection of wildlife present and habitat features have also been recommended, as outlined above.

- **Engineering and Transport issues**

The submissions notes that the Engineering and Traffic referral raise issues with the access handle width and grades which is contrary to the PDCP controls and insufficient information has been submitted to demonstrate that adequate space is retained for safe vehicle movement. The Transport referral notes that the access handle is too narrow an easement for a right of way would be required to allow for a suitable passing bay. Concern is raised over the widening of the driveway and adjoining properties do not support such an easement required for a ROW to achieve passing bay requirements. The scale and difficulty of the development on a steep and narrow battleaxes driveway with houses either side is not sustainable and will have unreasonable amenity and road safety impacts.

Comment:

As above, Council share the concerns raised in the submission and insufficient information has been submitted to satisfy Council that safe access can be provided due to outstanding issues with the steep, narrow driveway and sight lines to Lower Plateau Road. The concerns with the reliance on the traffic light system and the widening of the passing bay which results in the traffic light being relocated outside the site boundary are noted. Due to insufficient information being submitted to address these road safety issue, in addition to there being no owners consent being provided for work outside the application site, the application is recommended for refusal.

- **Stormwater**

The submissions raise further concerns about the watercourses running through this proposed development are already at capacity. Should this development take place there is the potential for catastrophic downstream damage to multiple houses, the right of carriageway running from 269 to 307 Hudson Parade, Hudson Parade roadway and

Refuge Cove public reserves. Evidence, dated 7th March 2022, is available of the watercourse overwhelming the Hudson Parade under road storm-water piping. The proposal for three (3) dwellings, additional hard driveways, removal of a significant numbers of trees, will undeniably overload this already under-managed natural watercourse. Council residents should not have to bear the consequences and costs of the legal actions that will result from the downstream damage caused by the next rain event similar to March 2022. The work may disrupt a channel that runs through the site and cause stormwater impacts to neighbouring properties. In addition, it is noted that the proposed OSD does not comply with Council's guidelines

Comment:

Council's Flooding Engineer raises no issues with the subdivision, subject to conditions. Despite this, due to insufficient being submitted to address stormwater and drainage issues Council cannot be satisfied that essential services are provided with no unreasonable impacts to neighbouring properties, refer to the detailed comments in the referral section of this report.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p><i>Supported - subject to conditions</i></p> <p>Council's Landscape Referral is assessed against the Pittwater Local Environment Plan (PLEP) clause C4 zone Environmental Living, and the following Pittwater 21 Development Control Plan (PDCP) controls (but not limited to): B2.2 Subdivision - Low Density Areas; B4.22 Preservation of Trees and Bushland Vegetation; C4.7 Subdivision - Amenity and Design; and D3 Bilgola Locality.</p> <p>The site is located in the C4 Environmental Living zone, requiring development to achieve a scale integrated with the landform and landscape, and to minimise impact on the natural environment with ecological, scientific or aesthetic values, including the retention of natural landscape features and existing trees, to satisfy the landscape objectives of the C4 Environmental Living zone. Existing site features includes; existing tree canopy, both native and exotic; rock outcrops; and watercourses. As part of the subdivision proposal, individual lot layouts are documented as is vehicular access. An indicative building layout is provided upon each Lot.</p> <p>The proposal is for subdivision of one lot into three lots, with site works proposed including demolition, new driveway and stormwater works.</p> <p><u>Updated comments:</u></p> <p>The amended plans have modified the proposed building and excavation footprint in proximity to the natural watercourse and this is supported to reduce the environmental impacts upon the watercourse, in terms of tree retention and/or watercourse restoration through native vegetation rehabilitation. Any development upon the proposed lots shall require native vegetation rehabilitation as outlined and approved in a Vegetation</p>

Internal Referral Body	Comments
	<p>Management Plan. The proposed indicative building layouts provide retention of the watercourse landscape setting, retention of existing prescribed trees, and availability of adequate landscape areas to permit the establishment of replacement canopy tree and other planting.</p> <p>As noted previously the following prescribed trees are impacted by the proposed subdivision works (driveway and stormwater works): trees 50, 96, 97, 99, 101 and 101A, and should the application for subdivision be approved only these trees, that require Council consent shall be approved for removal. Any future development applications upon the proposed lots for buildings and structures shall be subject to individual development application assessment for landscape works and for the management of prescribed trees.</p> <p><u>Previous comments:</u></p> <p>The Flora and Fauna Assessment report is noted, including recommendations for a Vegetation Management Plan for any future development upon approved subdivision Lots. The Waterways Impact Statement is noted including the identification of the first order waterway in sections.</p> <p>An Arboricultural Impact Assessment (AIA) report is submitted and identifies 261 existing trees within the property, with 167 exempt species that are able to be managed or removed without Council consent, as per PDCP. There are 94 prescribed trees (ie. protected by PDCP) located within the property. 26 prescribed trees are impacted by the proposed indicative building layouts and proposed subdivision works, with 1 high retention value tree, 23 medium retention value trees, and 2 low retention value trees proposed for removal. However of these only the following prescribed trees are impacted by the proposed subdivision works (driveway and stormwater works): trees 50, 96, 97, 99, 101 and 101A, and should the application for subdivision be approved only these trees shall be approved for removal.</p> <p>The proposed lot arrangements raise concerns with regards to the objectives of the C4 zone Environmental Living in terms of the arrangement of proposed lot boundaries and indicative building layout relative to the natural watercourse. The proposal does not minimise impact on the natural environment, whereby lot boundaries are located across the southern watercourse of lot 2 and lot 3, and the indicative building layout for lot 1 is located over the northern watercourse. Ultimately such encroachments prohibit the retention or enhancement of vegetation associations within the watercourses.</p> <p>Landscape Referral at this stage are unable to support the development application as the lot boundary arrangements and the indicative building layouts are not integrated with the natural environment and do not respond to the natural constraints of the northern and southern watercourses.</p>
NECC (Bushland and Biodiversity)	<p><i>Supported - subject to conditions</i></p> <p><u>Updated comments 23/08/2024</u></p>

Internal Referral Body	Comments
	<p>Amended plans have been submitted with the application. The amended plans show that additional trees originally proposed for removal are to be retained - 65 trees are now proposed for removal as opposed to the original 93 trees proposed for removal. Of those proposed for removal the following are considered prescribed: 50, 96, 97, 99, 101, 101A, 103A, 108, 139, 257, 260 and 261. The remaining trees proposed for removal are considered exempt and Council's consent would not be required for their removal.</p> <p>The recommendations issued in the submitted Flora and Fauna assessment remain unchanged. Conditions are recommended to ensure that the recommendations set out in the report are complied with, including the development and implementation of a VMP across the site.</p> <p>Conditions will be recommended to include tree replacements to compensate for the removal of prescribed trees and management of weeds on site in order to comply with the objectives and requirements of PLEP 7.6 and PDCP B4.4.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p><u>Amended comments</u></p> <p>The finalised Flora and Fauna assessment (Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands, September 2023 - April 2024) has been submitted with the application and concluded that the proposed subdivision and vegetation clearing would not trigger entry into the Biodiversity Offsets Scheme. The proposed development would result in the clearing of 0.07 Ha of highly degraded vegetation that could belong to the either Escarpment Moist Forest and PCT 3592 Sydney Coastal Enriched Sandstone Forest. 5 part tests (tests of significance) have been conducted for potentially impacted bat species that would use the area for foraging purposes and concluded that no significant impacts would take place.</p> <p>The proposal has been submitted with an Arboricultural Impact Assessment (Urban Forestry Australia, December 2022) that has recommended the removal of 93 trees resulting from the assessment of a total of 287 trees. Out of the 93 trees proposed for removal, 26 are prescribed trees and the remaining 67 are exempt trees under PDCP Clause B4.22 Preservation of Trees and Bushland Vegetation. However, trees 96, 97 and 113 are the only locally native prescribed trees being removed.</p> <p>Conditions will be recommended to include tree replacements to compensate for tree removals and management of weeds on site.</p> <p>The development is designed, sited and will be managed to avoid any significant adverse environmental impact.</p> <p><u>Original comments</u></p>

Internal Referral Body	Comments
	<p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> • NSW Biodiversity Conservation Act 2016 • NSW Biodiversity Conservation Regulation 2017 • Pittwater LEP 2014 - Part 7.6 Biodiversity Protection • Pittwater 21 DCP - Clause B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor <p>The proposal has been submitted with an Arboricultural Impact Assessment (Urban Forestry Australia, December 2022) that has recommended the removal of 93 trees resulting from the assessment of a total of 287 trees. Out of the 93 trees proposed for removal, 26 are prescribed trees and the remaining 67 are exempt trees under PDCC Clause B4.22 Preservation of Trees and Bushland Vegetation.</p> <p>A Flora and Fauna assessment (Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands, September 2023) has been submitted with the application and concluded that the proposed subdivision and vegetation clearing would not trigger entry into the Biodiversity Offsets Scheme. However, the FFA will have to be resubmitted to include the total area cleared as the submitted report is still in draft form (page 17 of the report). The report has not identified any threatened ecological communities and threatened species but has identified high risk weeds that need to be managed on the site. No five part tests or Tests of Significance have been submitted with the FFA in its draft form and will also have to be submitted with the finalised report.</p> <p>The proposal in its current form is found to be inconsistent with applicable controls PLEP 7.6 and PDCC B4.4 as no tree replacement plantings are being proposed and the removal of a significant amount of vegetation would be required, constituting a significant onsite loss of canopy cover and a net loss in native canopy trees. Given that the proposed footprints have been considered in the provided plans, a landscape plan including tree replacements for the proposed removals of prescribed trees should be included with the application for compliance with applicable controls.</p> <p>The Biodiversity referral will recommence upon reception of the finalised Flora and Fauna Report as well as a Landscape Plan that includes tree replacements for prescribed trees proposed for removal.</p>
NECC (Development Engineering)	<p><i>Unsupported - the proposal is not acceptable</i></p> <p><u>Updated Comments 18/10/24</u></p> <p>The recently submitted DRAINS model and stormwater management plan has been reviewed and is not supported for the following reasons: 1) State of Nature predeveloped conditions have not been modeled in the determination of the the Right of way on site stormwater detention (OSD) and post development discharge requirements . The design is to be in</p>

Internal Referral Body	Comments
	<p>accordance with Councils Water Management for Development Policy.</p> <p>2) Accordingly the OSD required for the proposed dwellings is to be designed based on State of Nature Pre Development conditions. An allowance is also to be made for supplementary impervious areas in the form of pathways and hard landscaping.</p> <p>3) Additionally the DRAINS model is to include the provision of climate change in accordance with ARR version 4.2.</p> <p>4) The summary information on the concept stormwater management plan does not align with DRAINS model.</p> <p>The following information previously requested information has still not been provided regarding the flooding impacts on the proposed development.</p> <p><i>As the property is impacted by overland flow Barrenjoey Consulting Engineers has summarised the flood information in terms of 1/100 AEP and FPL levels throughout the development site from Councils Avalon to Palm Beach Flood Plain Risk Management Study and Plan 2017 as prepared by Manly Hydraulics Lab. However no assessment has been made as requested in the previous development application in terms of whether the proposed dwellings have habitable floors w a minimum of 500mm freeboard to the 1/100 AEP overland flow path levels. Additionally an assessment is to be made on the proposed location of the internal access road and the existing overland flow paths that impact the site.</i></p> <p>Unsupported</p> <p>The proposed three lot subdivision has been reviewed and is not supported for the following reasons:</p> <p>1) Access handle width and grades.</p> <p>As highlighted by Councils Traffic Engineers comments the access handle from Lower Plateau Road is limited in width to 4.57m , the Pittwater 21 Development Control Plan (DCP) requires a passing bay to an overall minimum width of 5m for a length of 10m with suitable transitions to be provided. It is not possible to provide a suitable passing bay within the driveway corridor as the ROW is only 4.57m so an easement for a right of way to achieve the passing bay requirements is to be obtained from the adjoining property(ies)</p> <p>The Pittwater 21 DCP also specifies that internal driveways are to be designed and constructed to provide safe access and shall have a maximum gradient of 1:5 (V:H). For internal driveways on steeply sloping or difficult sites, gradients may be increased up to 1:4 (V:H) over a maximum 20m length. The site gradient is approximately 1:3 (V:H) for the last 20m of the driveway corridor, which exceeds the permissible gradient.</p> <p>2) The subdivision application does not have supported engineering plans that detail access way long sections , cross-sections and retaining wall locations . The engineering plans requirements are detailed in Councils Auspec one design specification.</p> <p>3) A stormwater management plan is required detailing the provision of on site stormwater detention in accordance with Councils Water management for development policy and in particular section 9.3.7 minimum required</p>

Internal Referral Body	Comments
	<p>information is to be provided on the stormwater management plan. A DRAINS model is also to be submitted to Council for review.</p> <p>5)As the property is impacted by overland flow Barrenjoey Consulting Engineers has summarised the flood information in terms of 1/100 AEP and FPL levels throughout the development site from Councils Avalon to Palm Beach FloodPlain Risk Management Study and Plan 2017 as prepared by Manly Hydraulics Lab. However no assessment has been made as requested in the previous development application in terms of whether the proposed dwellings have habitable floors w a minimum of 500mm freeboard to the 1/100 AEP overland flow path levels. Additionally an assessment is to be made on the proposed location of the internal access road and the existing overland flow paths that impact the site.</p> <p>Flood Study Reference: Avalon to Palm Beach Floodplain Risk Management Study and Plan 2017, Manly Hydraulics Laboratory</p>
NECC (Flooding)	<p><i>Supported - subject to conditions</i></p> <p>The proposal is for the subdivision of the land into 3 lots. This includes outlining future construction of structures situated above the floodway.</p> <p>Subject to the following conditions, the subdivision proposal complies with Section B3.11 of the DCP.</p> <p>Future development applications for construction on the subdivided lots will need to demonstrate compliance with flood development controls in B3.11 of the Pittwater DCP. The underside of any structures situated above a floodway need to be at or above the Flood Planning Level for that location. Piers and supports for those structures will not be permitted in the floodway, and this will need to be demonstrated in a Flood Risk Management Report.</p>
NECC (Riparian Lands and Creeks)	<p><i>Supported - subject to conditions</i></p> <p><u>Updated comments</u></p> <p>This application was assessed in consideration of but not limited to:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy. • Relevant LEP and DCP clauses with specific attention to: <ul style="list-style-type: none"> Pittwater LEP 2014 C4 Environmental Living objective: to encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors. Pittwater 21 DCP section B5.13 Outcome: An appropriate setback between waterways and development . Pittwater 21 DCP sB5.13 Controls: <ul style="list-style-type: none"> • Any waterfront land (as defined in the Water Management Act 2000) on the property shall be retained in their natural state to: carry stormwater/flood flows, maintain aquifers, retain stability, and provide habitat functions. • Development within waterfront land shall incorporate appropriately sized riparian corridor zones into the design (now based on Controlled activities – Guidelines for riparian corridors on waterfront land (NSW DPE, May 2022)).

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • No encroachments or low lying overhangs of the development are permitted over natural water courses. <p>The proposal is for demolition of all existing site improvements, tree removal, subdivision of one lot into three, internal driveway, and infrastructure.</p> <p>The site is located in a C4 Environmental Living Zone and includes two watercourse with associated vegetated riparian corridor. The proposal is subject to a control activity permit for waterfront land.</p> <p>The amended documentation is showing a relocation of building footprint compatible with riparian protection requirements.</p> <p>NECC riparian has no objection to the proposal, subject to conditions.</p> <p>ORIGINAL COMMENTS</p> <p>The site opportunities for development are limited by the lot shape, topography, geology and the presence of the watercourses. The proposed three lot arrangements and indicative building pad is detrimental to the site setting due to the impacts on the riparian corridor. The encroachments in the five meter inner riparian corridor compromise the riparian functions. The indicative building layout encroachments over and adjacent the watercourses would not be acceptable under future development applications.</p> <p>The catchment team is not supporting the applications as the proposal is too extensive for the site natural constraints.</p>
NECC (Water Management)	<p><i>Supported - subject to conditions</i></p> <p>This application was assessed in consideration of but not limited to:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Relevant LEP and DCP clauses; • Northern Beaches Water Management for Development Policy (WMD) <p>The proposal is for demolition of all existing site improvements, tree removal, subdivision of one lot into three, internal driveway, and infrastructure.</p> <p>Northern Beaches Water Management for Development Policy is stating the water quality objectives for 3 lots subdivision. Under section 4.1 "Stormwater Quality and Hydrology" the proposal is to include a stormwater treatment chain to achieve the general stormwater quality requirements with as a minimum:</p> <ul style="list-style-type: none"> -65% reduction in Phosphorus -45% reduction in Nitrogen -90% reduction for Total Suspended Solid <p>Refer table 5 of the water policy (WMD) for the performance requirements.</p>

Internal Referral Body	Comments
	<p>All stormwater treatment measures must be designed in accordance with the requirements of the WMD Policy and Northern Beaches Council's WSUD and MUSIC Modelling Guidelines.</p> <p>The proposed stormwater quality management strategy is satisfactory.</p>
Traffic Engineer	<p><i>Unsupported - The proposal is unacceptable</i></p> <p><u>Further Comments dated 30/08/2024</u></p> <ul style="list-style-type: none"> It is noted that an amended master set has been provided dated 30/08/2022 (received 21/08/2024) followed by a one page Traffic Plan which is just a snippet of a swept path analysis. The provided snippet of swept path shows a continuous path for the entering vehicle with the exiting vehicle stopped to give way. It is understood that the width of driveway has been widened to facilitate the exiting vehicle giving way to the entering car. This has been reflected on the architectural plans as well. It is noted that the amended architectural plan shows passing vehicles within the property boundary and the taper length for passing has been increased to 10 metres as requested in the original referral response. It is also noted that the architectural plan shows the location of a traffic signal at the top of the driveway ramp located east of the letterboxes and on the drivers side for an entering vehicles. It is also noted that the location of traffic signal at the base of the driveway is now located more appropriately in the exiting drivers line of sight. It is however noted that plans on pages 11 & 12 of the plan set do not reflect the above and details should be consistent throughout the plan set. Requested details have not been provided showing a long section vehicle clearance plot, sight line assessment at the boundary or addressing the excessive grades at the top of the ramp. The applicant should refer to the original referral response dated 28/05/2024 and address the outstanding matters. Until further information as requested above is provided, the DA remains unsupported by the traffic team. <p><u>Original Comments dated 28/05/2024</u></p> <p>Proposal Description: Proposed demolition of existing dwelling and subdivision of one lot into three lots</p> <p>The Traffic Team has reviewed the following documents:</p> <ul style="list-style-type: none"> Plans (Master Set), prepared by Gartner Trovato Architects, dated 30/08/2022. Traffic Report (ref: 22070), prepared by Terrafic Pty Ltd, dated 12th March 2024. The Statement of Environmental Effects, prepared by BBF Townplanners, dated March 2024

Internal Referral Body	Comments
	<p>Comments</p> <ul style="list-style-type: none"> It is understood that the proposal is for demolition of the existing dwelling, removal of trees and subdivision of one lot into three lots. The existing vehicle access from Lower Plateau Road via a 3 metre wide Right of Way (RoW) is retained to provide access to the proposed 3 lots with some modifications including a widening of the driveway to 5.47 metres at the kerb, excluding wings in order to provide passing of B85 and B99 vehicles. The proposed passing bay has a width of 4.57m and length of approximately 5 metres with an additional length of taper of 7 metres. According to the Pittwater DCP clause B6.2, a passing bay should be minimum 5 metres wide and 10 metres long with suitable transitions to the adjacent narrow driveway. Due to site constraints, the passing bay is not fully compliant with the Pittwater DCP and the location of passing bay is in nature strip not within the site boundary contrary to AS2890.1 which requires such bays to be located inside the property boundary of 5.5m in width and extending for at least 6m (clause 3.2.2). Council could consider approval of a slightly non-compliant passing bay as the traffic volume using this access is low, however, the swept path should be amended to show an egressing B99 passing a B85 waiting internal to the property with its swept path shown. A swept path should also be plotted for an egressing B85 passing a B99 waiting internal to the property with its swept path shown. The swept path on page 16 of the traffic report shows a propped B85 vehicle external to the property without its entry movement path from the road. The currently proposed arrangements are inadequate to be considered acceptable. The proposed One Way Right of Way is longer than 40 metres and is supported with traffic signals in order to avoid vehicle to vehicle encounters on the 3m width of the Right of Way. Such provision is considered essential given the steep gradient and inadequate intervisibility on the ramp. The use of traffic signals is acceptable subject to relevant conditions of consent. The current location of the traffic signal and passing bays at the base of driveway access ramp is not ideal. While the light at the top of the driveway is located on the drivers side of the vehicle for entering the ramp, the light at the base of the ramp is located on the passenger side, where it will be less obvious. Also, the locations where exiting vehicles would wait to Give Way to the entering vehicles must be shown on the plans, for subsequent marking on-site to ensure that waiting vehicles do not impede passing of an entering vehicle. Vehicles stopping to give way should be doing so from within the property not on the Council nature strip. Moreover, swept paths must be plotted for the situations where an entering vehicle would have to go around the propped exiting vehicle within the site. On page 12 of the architectural plans, the location of the passing bay is shown inappropriately on the exiting vehicle side and external to the property. The passing bay(s) for the egressing vehicle must be shown at the base of the access ramp and for the ingressing

Internal Referral Body	Comments
	<p>vehicle at the top of the ramp and internal to the property. This will require further driveway widening at the top of the ramp. These bays must be located clear of the swept path of a passing B99 vehicle.</p> <ul style="list-style-type: none"> • A sight line assessment must be provided to show that there is adequate sight distance for exiting vehicles in accordance with AS 2890.1:2003. • It is noted that the top of the ramp is non compliant with the transition at the top of the ramp exceeding 5% across the property boundary. This means that sightlines for egressing traffic to pedestrians and traffic will be constrained however as this is existing and grades cannot realistically be further eased, it is acceptable subject to additional widening at the top to allow for a passing bay internal to the property. • A ground clearance plot must be provided along all of the ramp long sections and cross sections of the accessway to demonstrate that scraping of the B85 vehicle does not occur. • It is noted that traffic generation has been assessed in accordance with RMS Guide to Traffic Generating developments (2013), which estimates that the development will generate 3 vehicle trips per hour during the peak periods. This is an increase of 2vtph compared to the existing situation. The traffic generation of 2 vehicle trips per hour is considered minor however will increase movements to and from the driveway across the footpath area and, as such sightlines must be demonstrated to be adequate. • The traffic report provides no information about the loading activities associated with the removalist vehicles and or how visitors will be accommodated. Given the steep gradients on the driveway ramp, its narrow width length and constrained turning ability at its base, coupled with the absence of any legal kerbside parking it is unclear how visitors, removalists and deliveries will be accommodated. Given the absence of kerbside parking appropriate parking/turning areas should be provided on site to cater for such activity. • In addition, kerbside collection of waste would be occurring however there is concern about safety for residents wheeling bins up the steep single width driveway to the street frontage and the potential for encounters with entering vehicles. No information on how this safety concern will be addressed has been provided. <p>Conclusion</p> <p>The application is not supported at this stage with further information as outlined above required prior to further consideration of the proposal.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p><i>Supported - subject to conditions</i></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the</p>

External Referral Body	Comments
	relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p><i>Unsupported, further information required</i></p> <p>There are known Aboriginal sites in the area. No sites are recorded in the current development area, however, the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites.</p> <p>The Aboriginal Heritage Office recommends a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional. The assessment would provide information on what potential Aboriginal heritage issues exist on the land and recommendations for any further action if required.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p> <p><u>Planner response:</u></p> <p>The applicant in email correspondence dated 21 August 2024 notes:</p> <p><i>I've further examined clause 5.10 of PLEP-2014 and I cannot see how this site requires aboriginal heritage due diligence. The clause 5.10(2) refers to heritage consideration when the site is either (i) a heritage item, (ii) an aboriginal object, or (iii) a building, work, relic or tree within a heritage conservation area. Our site is none of the above.</i></p> <p><i>Clause 5.10(8)(a) requires that the application consider the effect....known or reasonably likely to be located". We submit that the Flora and Fauna (FF) Report and the WIS reports have provided this due diligence by way of the AHIMS search as noted in the reports, which indicated sites within 200m of but not on the site.</i></p> <p><i>Please indicate the legislation / PLEP clause that indicates clearly that this application requires a Due Diligence report in addition to that already carried out by the F&F and WIS reports, rather than opinion. I have downloaded and attached the Due Diligence Code of Practice and cannot identify where in this document the site falls into a legislative requirement. Specifically in section 8 on page 14, the answer to question 2 is NO and therefore an AHIP is not required. I believe this is the due diligence combined with the AHIMS.</i></p> <p>In response to the above, it is confirmed that the Aboriginal Heritage</p>

External Referral Body	Comments
	Office has inspected the site and notes that the site contains landscape features that indicate the potential presence of Aboriginal objects. The proposed work has the potential to harm aboriginal heritage, as such, a due diligence report is required in accordance with the due diligence code of practice.
Nominated Integrated Development - DCCEEW - Water - Water Management Act 2000, s91 - Controlled Activity Approval for works within 40m of watercourse	<p><i>Supported, subject to conditions</i></p> <p>The application was referred to the Department of Planning and Environment - Water as Integrated Development requiring a Controlled Activity approval under the <i>Water Management Act 2000 (WM Act)</i>.</p> <p>On 10 July 2024 the Department of Planning and Environment - Water issued General Terms of Approval (GTA).</p> <p>The amended plans were re-notified to the Department of Planning and Environment - Water as Integrated Development requiring a Controlled Activity approval under the Water Management Act 2000 (WM Act).</p> <p>On 15 October 2024, a new set of GTA's were issued.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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)

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The application seeks consent for the subdivision of one (1) lot into three (3) lots and is sited within the Greater Sydney region. As such, should the application be supported a contribution of \$24,000 (\$12,000 per new lot) would be required.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	700sqm	Lot 1: 1,197m ² exclusive of access handle Lot 2: 825m ² exclusive of access handle Lot 3: 945m ² exclusive of access handle	N/A	Yes
Height of Buildings:	8.5m	Concept dwelling 1 = 8.5m Concept dwelling 2 = 8.1m Concept dwelling 3 = 8.4m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.1 Minimum subdivision lot size	Yes
5.10 Heritage conservation	No
5.21 Flood planning	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	No
7.6 Biodiversity protection	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	No

Detailed Assessment

Zone C4 Environmental Living

The proposal is assessed against the objectives of zone:

The underlying objectives of the objectives of the C4 Environmental Living zone are:

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

Comment:

The proposal seeks consent only for the subdivision of one lot into three and associated infrastructure work, including the driveway. Amended environmental reports have been submitted to address biodiversity, water management, flooding and landscape concerns, subject to conditions.

Amended concept plans for the dwelling have been received which demonstrate that three dwellings can be accommodated on the site, which represent an acceptable, low-impact residential development, with no unreasonable impacts on the special ecological, scientific and aesthetic values of the locality. The amended concept plans reduce the footprint, height, scale, bulk and density of the dwellings so they are compliant with the applicable built form controls. The dwellings have been repositioned away from the watercourse to retain the landscape setting of the watercourse and reduce the extent of vegetation to be removed. The application is supported by Council's Landscape Officer, Biodiversity Officer, Riparian Officer, Water Management Officer and Flooding Engineer, subject to conditions that would be recommended if the development was to be recommended for approval.

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

Comment:

As above, the proposal, as amended, and subject to conditions that would be recommended if the development was recommended for approval, will not have an unreasonable effect on the ecological, scientific or aesthetic values.

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

Comment:

As above, the proposal, as amended demonstrates that three dwellings can be accommodated on the site which are low scale and will integrate with the landform and landscape.

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

Comment:

The proposal, as amended, and subject to conditions that would be recommended if the development was recommended for approval, has the potential to enhance wildlife corridors, refer to the detailed comments from Council's Biodiversity Officer in the referral section of this report.

4.1 Minimum subdivision lot size

The proposal is assessed against the objectives of the control:

(a) to protect residential character and amenity by providing for subdivision where all resulting lots are consistent with the desired character of the locality, and the pattern, size and configuration of existing lots in the locality,

Comment:

The size of the proposed lots exceed the minimum 700m² requirement and the proposed subdivision pattern and configuration will not unreasonably impact the desired character of the Bilgola Lower Plateau locality.

(b) to provide for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards

Comment:

A geotechnical report has been submitted with application which confirms that the proposed three lot subdivision, associated infrastructure works and subsequent construction of dwellings, as detailed in the concept plans, will be safe from hazards subject to compliance with the recommendations of the report. In addition, an updated flooding report has been submitted to the satisfaction of Council's Riparian and Water Management Officers to confirm that the proposal will not result in hazards on the watercourse.

(c) to provide for subdivision where all resulting lots are capable of providing for buildings that will not unacceptably impact on the natural environment or the amenity of neighbouring properties,

Comment:

Amended concept plans have been submitted which demonstrate that the three (3) lots are capable of accommodating dwellings that will not unreasonably impact the natural environment or the amenity of neighbouring properties, subject to conditions. As discussed elsewhere in this report, the footprint and extent of excavation associated with the concept dwellings has been reduced and the dwellings are repositioned away from the watercourses and associated vegetated riparian corridor. Updated environmental report have been submitted to the satisfaction of Council's Biodiversity Officer, Riparian

Officer and Water Management Officer.

The height, scale and density of the concept dwellings has also been reduced to comply with the built form controls and measures are included to the design to ensure that there are no unreasonable amenity impact in respect of privacy.

(d) to provide for subdivision that does not adversely affect the heritage significance of any heritage item or heritage conservation area,

Comment:

As above, insufficient information, namely a preliminary due diligence report has been provided to satisfy Council that the proposed development will not have an unreasonable impact on Aboriginal heritage.

(e) to provide for subdivision where all resulting lots can be provided with adequate and safe access and services,

Comment:

As above, insufficient information has been submitted to satisfy Council that adequate safe access and services, including stormwater and drainage, can be provided to and from the site.

(f) to maintain the existing function and character of rural areas and minimise fragmentation of rural land,

Comment:

The site is zoned C4 Environmental Living, it is not a rural area, therefore this objective is not relevant.

(g) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

Comment:

Again, concept plans for the dwellings have been submitted which demonstrates that the size and dimension of the three lots are able to accommodate development consistent with the relevant development control.

Having regard to the above assessment, it is concluded that due to insufficient information being submitted, the proposed development is inconsistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

5.10 Heritage conservation

(1) The objectives of the control are as follows:

- (a) to conserve the environmental heritage of Pittwater,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Sub-clause (8) requires:

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

Comment:

The application was referred to the Aboriginal Heritage Officer who notes that there are known aboriginal sites in the area. As such, a preliminary inspection ('*due diligence*' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional was requested, refer to the detailed response in the referral section of this report. The report has not been submitted, therefore, it has not been possible to consider the effects of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment. The proposal is therefore contrary to the requirements of the clause 5.10(8) and objective (1) (d) which requires the conservation of Aboriginal objects and Aboriginal places of heritage significance.

Having regard to the above assessment, it is concluded that the proposed development, due to insufficient being submitted, is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

7.2 Earthworks

The objective of Clause 7.2 - 'Earthworks' requires development to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

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

Comment: Insufficient information has been submitted to confirm that the proposal is unlikely to unreasonably disrupt existing drainage patterns in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

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

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition can be included requiring any fill to be of a suitable quality, if the development were to be approved.

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

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions can be included to limit impacts during excavation/construction, if the development were to be approved.

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

Comment: The excavated material will be processed according to the Waste Management Plan for the development. Conditions can be included requiring any fill to be of a suitable quality, if the development were to be approved.

(f) the likelihood of disturbing relics

Comment: As above, insufficient information being submitted it has not been possible to consider the effects of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area

Comment: The site is environmentally sensitive, it is heavily vegetated and two (2) water courses dissect the site. GTA's have been received from Department of Planning and Environment - Water and Council's Water Management and Riparian Officer, subject to conditions. The application has also been amended to address issues raised by Council's Landscape and Biodiversity Officer with a reduction in tree removal and a change in the proposed building and excavation footprint in proximity to the natural watercourse, refer to detailed comments in the referral section of this report.

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

Comment: In the absence of a due diligence aboriginal heritage report it is not possible to confirm the appropriate measures to avoid, minimise or mitigate impacts to heritage.

(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.

Comment: As above, there are known aboriginal sites in the area. Insufficient information has been submitted to confirm that there will be no adverse impacts on aboriginal heritage.

Having regard to the above assessment, it is concluded that the proposed development, due to insufficient information being submitted, is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

7.6 Biodiversity protection

Before determining a development application for development on land to which this clause applies, this clause requires the consent authority to 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

Comment:

The development has been assessed by Council's Biodiversity Team, who raised no objections to the amended proposal, subject to conditions, that could be imposed were the development to be recommended for approval. The development will not have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land; the importance of the vegetation on the land to the habitat and survival of native fauna; or the habitat elements providing connectivity on the land. Further, the development will not unreasonably fragment, disturb, or diminish the biodiversity structure, function, or composition of the land, subject to conditions that could be imposed were the development to be approved.

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

Comment:

The development, as amended, has been assessed by Council's Biodiversity Team, who raised no objections to proposal, subject to conditions that could be imposed were the development approved. The proposal includes appropriate measures to avoid, minimise, or mitigate the impacts of the development.

Before granting development consent, this clause also requires the consent authority to be 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 amended development has been assessed by Council's Biodiversity Team, who raised no objections to proposal subject to conditions that could be imposed were the development recommended for approval. Therefore, the development is designed, sited and will be managed to any significant adverse environmental impact.

7.7 Geotechnical hazards

Under Clause 7.7 Geotechnical Hazards, before determining a development application for development on land to which this clause applies, the consent authority must consider the following

matters to decide whether or not the development takes into account all geotechnical risks:

- (a) site layout, including access,*
- (b) the development's design and construction methods,*
- (c) the amount of cut and fill that will be required for the development,*
- (d) waste water management, stormwater and drainage across the land,*
- (e) the geotechnical constraints of the site,*
- (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Comment:

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

Comment:

Insufficient information has been submitted to satisfy Council that the development will appropriately manage stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land.

(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:

The proposed development is supported by a geotechnical risk assessment which notes:

The site investigation did not identify any significant or deep-seated landslip instability hazards or signs of previous instability, or unstable boulders. The proposed residential structures indicate minimal fill and excavation required with structures supported on posts founded on competent bedrock or reusing existing footings founded on bedrock where approved by the structural engineer.

All new footings should be founded within competent sandstone bedrock of at least low strength in order to minimise the risk of differential settlement and creep movement in the slope along with erosion at creeks unless otherwise accounted for in the structural engineering design. Ancillary structures may be founded to residual soils. Footings should not be founded in fill or colluvial soils.

Excavation is understood to be limited to the proposed dwelling in the southern portion of the site and is not expected to encounter bedrock. Therefore, vibration monitoring is not expected to be required. All footings must be inspected by an experienced geotechnical professional during construction and/or before concrete/steel are placed to verify the expected geology and depth for confirmation of assumed load capacity. These inspections are mandatory if the project requires 'certification' upon completion.

The risks associated with proposed development on the site can be maintained within 'Acceptable' levels with negligible impact to the neighbouring properties or structures provided the

recommendations of the report are implemented.

The application has been reviewed by Council's Development Engineer, who raises no issues with the proposal in terms of geotechnical risk. As such, the proposed development has been designed, sited, and will be managed to avoid any geotechnical risk and significant adverse impact on the development and the land surrounding the development, subject to conditions that could be imposed were the development recommended for approval.

Having regard to the above assessment, it is concluded that due to insufficient information being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

7.10 Essential services

Under this clause, 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:

Insufficient information has been submitted to satisfy Council that proposal provides suitable stormwater and drainage measures and vehicular access, therefore, the proposal inconsistent with Clause 7.10 (e), refer to the detailed comments in the referral section of this report.

Having regard to the above assessment, it is concluded that due to insufficient information being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	Concept dwelling 1 = 6.9m Concept dwelling 2 = 6.44m Concept dwelling 3 = 8.4m	- 100mm (assessed as acceptable noting the average 8.4m) -	Yes No Yes
Rear building line	6.5m	Concept dwelling 1 = 46.6m Concept dwelling 2	- - -	Yes Yes Yes

		= 77.68% Concept dwelling 3		
Side building line	2.5m North	Concept dwelling 1 =5.7m Concept dwelling 2 = 3m Concept dwelling 3 =6.7m	- - -	Yes Yes Yes
	1m Southern	Concept dwelling 1 = 2.5m Concept dwelling 2 = 3.7m Concept dwelling 3 = 2.1m	- - -	Yes Yes Yes
Building envelope	3.5m North elevation	Concept dwelling 1 =no breach Concept dwelling 2 = no breach Concept dwelling 3 = minor breach	- - triangular area on the first floor which measures 1.0 in height x 2.7m in length triangular area on ground floor 0.7m in height x 3.5m in length	Yes Yes No
	3.5m South elevation	Concept dwelling 1 =minor breach Concept dwelling 2 = no breach Concept dwelling 3 = no breach	triangular area (0.3m in height x 3.3m in length) - -	No Yes Yes
Landscaped area	60%	Concept dwelling 1 = 76.34% Concept dwelling 2 = 77.68% Concept dwelling 3 = 71.48%	- - -	Yes Yes Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.3 Bilgola Locality	No	No
B1.4 Aboriginal Heritage Significance	No	No
B2.2 Subdivision - Low Density Residential Areas	No	No
B3.1 Landslip Hazard	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.15 Stormwater	No	No
B6.1 Access driveways and Works on the Public Road Reserve	No	No
B6.2 Internal Driveways	No	No
B6.3 Off-Street Vehicle Parking Requirements	Yes	No
B6.7 Transport and Traffic Management	No	No
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C4.1 Subdivision - Protection from Hazards	Yes	Yes
C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities	No	No
C4.3 Subdivision - Transport and Traffic Management	No	No
C4.5 Subdivision - Utility Services	Yes	Yes
C4.6 Service and delivery vehicle access in subdivisions	No	No
C4.7 Subdivision - Amenity and Design	Yes	No
C4.8 Subdivision - Landscaping on the Existing and proposed public road reserve frontage to subdivision lots	Yes	Yes
D3.1 Character as viewed from a public place	Yes	Yes
D3.6 Front building line	Yes	Yes
D3.7 Side and rear building line	Yes	Yes
D3.9 Building envelope	No	Yes
D3.11 Landscaped Area - Environmentally Sensitive Land	Yes	Yes
D3.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

A1.7 Considerations before consent is granted

Before granting development consent, Council must be satisfied that the development is consistent

with:

- i. Pittwater Local Environmental Plan 2014; and*
- ii. the desired character of the Locality; and*
- iii. the development controls applicable to the development.*

Council will also have regard to the matters for consideration under section 4.15 Evaluation of the Environmental Planning and Assessment Act 1979.

Before granting consent for development within a Locality, Council may consider the provisions of a neighbouring Locality to the extent to which it affects the subject site.

Comment:

As discussed above, the site is not considered suitable for the proposal development due to insufficient information being submitted to satisfy Council that safe access and suitable stormwater drainage can be provided and that there will be no adverse impact on Aboriginal heritage.

A4.3 Bilgola Locality

Desired Future Character (DFC) states:

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.....Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

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

Comment:

The concept plans have been amended to reduce the footprint, height, scale, bulk and massing of all three dwellings to generally comply with the built form controls and ensure that there is no unreasonable impact on the watercourses, subject to conditions. The amended concept plans demonstrate that the site can be subdivided into three lots and environmental impacts can be managed via conditions. The proposed subdivision requires the removal of six (6) prescribed trees and a condition could be imposed (if the development was to be approved) requiring the planting of twelve (12) advanced canopy trees.

Despite this, insufficient information has been submitted to satisfy Council that the proposal provides essential services, namely safe access and adequate stormwater and drainage, as such, the proposal is inconsistent with the Desired Future Character of the locality.

B1.4 Aboriginal Heritage Significance

The controls require:

If a property, the subject of a development application is identified as possibly meeting any of the criteria for being a potential Aboriginal place or containing an Aboriginal object then additional independent information on the potential heritage significance may be requested.

If a property, the subject of a development application, is in the vicinity of an identified or potential Aboriginal place of heritage significance or Aboriginal object then additional independent information on the potential heritage significance may be requested.

The additional information requested may take the form of a report prepared by a suitably qualified person as defined by the NSW Office of Environment and Heritage, as well as consultation with the NSW Office of Environment and Heritage and appropriate Aboriginal groups.

If an Aboriginal site or relic is discovered, it must be reported to the NSW Office of Environment and Heritage and all works stopped.

Development must conserve the significance of any Aboriginal place of heritage significance or Aboriginal object.

Comment

As discussed under Clause 5.10 of the PLEP, the application was referred to the Aboriginal Heritage Officer who confirms that there are known Aboriginal sites in the area. As such, a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional was requested. The report has not been submitted, therefore, it has not been possible to consider the effects of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment. Due to insufficient information being submitted to allow an adequate investigation and assessment of Aboriginal heritage the proposal is inconsistent with the requirements and following objectives of Clause B1.4:

Provide protection for Aboriginal place of heritage significance or Aboriginal object.

Potential Aboriginal places of heritage significance and Aboriginal objects are identified and protected.

Having regard to the above assessment, it is concluded that due to insufficient being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B2.2 Subdivision - Low Density Residential Areas

The control requires:

Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot depth of 27 metres.

Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 1 on the Landscaped Area Map shall have a minimum lot width at the building line of 16 metres.

Any lot (or lots) to be created by a subdivision of an existing lot (or lots) on land identified as Area 2 or 3 on the Landscaped Area Map shall have a minimum lot width at the building line of 15 metres.

Any lot (or lots) to be created by a subdivision of an existing lot (or lots) shall have a minimum lot width at the building line of 9 metres at the waterfrontage.

Any lot (or lots) are to be capable of providing for the construction of a building which is safe from hazards, does not unreasonably impact on the natural environment, does not adversely affect heritage, and can be provided with adequate and safe access and services.

A person shall not subdivide land if the allotment(s) intended to be created have a slope in excess of 16.7 degrees (30%), measured between the highest and lowest points on any such allotment(s).

The minimum area for building shall be 175m².

Comment:

All three (3) lots exceed the minimum 27 metres depth with the depth of the lots varying between 53.0 metres (lot 3) - 74.0 metres (lot 1). All three (3) lots exceed the minimum 16.0 metres width requirement. Lot 1 has a width of 22.0 metres at the frontage, lot 2 has a width of 18.0 metres at the frontage and lot 3 an average width of 18.0 metres. To address environmental concerns, the building footprints have been reduced to; lot 1, 150m², lot 2 = 179m² and lot 3, 173m².

Lot 1 has an maximum slope of 31.35% (RL81.94 - RL58.56 over a distance of 74.58 metres), including the creek, as such it represents a minor breach of the 30% maximum slope control. The applicant notes that the lot has an average slope of 25.44% (RL82.23 - RL64.00 over a distance of 71.66 metres) excluding the creek. The applicants justification, on merit, is considered to be acceptable as the minor breach will not result in an inconsistency with the outcomes of the control as discussed below.

Lot 2 has a maximum slope of 25.44% (RL82.23 - RL64.00 over a distance of 71.66 metres in length) and lot 3 has a maximum slope of 29.65% (RL81.13 - RL64.00 over a distance of 57.78 metres in length).

Insufficient information has been submitted to satisfy Council that adequate services can be provided to the lots including safe access and adequate stormwater drainage, refer to discussion above.

Insufficient information has been submitted to consider the effects of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment, refer to discussion above.

The proposal is assessed, on merit, against the outcomes of the control:

Achieve the desired future character of the locality.

Comment:

Insufficient information being submitted to satisfy Council that safe access and adequate stormwater drainage can be provided to the development and that there will be no unreasonable impact on Aboriginal Heritage. As such, the proposal is inconsistent with the desired future character of the locality, refer to discussion under Clause A4.3.

Maintenance of the existing environment.

Comment:

The proposal, as amended, and subject to conditions, will not result in unreasonable environmental impacts.

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

Comment:

The proposal will not unreasonable impact on views to and from public / private places.

The built form does not dominate the natural setting.

Comment:

The concept plans, as amended, demonstrate that three (3) dwellings can be accommodated on the site which are generally in compliance with the built form controls. Existing and proposed vegetation will help soften the bulk of the new dwellings and the dwellings are sited in a suitable landscape setting.

Population density does not exceed the capacity of local and regional infrastructure and community services.

Comment:

It is not anticipated that the additional two dwellings on the site will exceed the capacity of the local and regional infrastructure and community services.

Population density does not exceed the capacity of local and regional transport facilities.

Comment:

As above, It is not anticipated density of the proposal will exceed the capacity of local and regional transport facilities.

Having regard to the above assessment, it is concluded that due to insufficient being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B3.1 Landslip Hazard

Refer to detailed discussion under Clause 7.7 Geotechnical Hazard of the PLEP above.

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

The proposal has been amended to reduce the excavation and building footprint with all dwellings being relocated away from the watercourses and riparian corridors to address concerns from Council's Biodiversity Officer, Landscape Officer, Riparian and Water Management Officers, subject to conditions that could be imposed, were the development to be approved. Refer to the discussion above and the detailed comments in the referral section of this report.

B4.22 Preservation of Trees and Bushland Vegetation

Requirements for other Development Applications

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

5. Development is to be sited and designed to minimise the impact on remnant native vegetation, including canopy trees and understorey vegetation, and on remnant native ground cover species.

6. Where the applicant demonstrates that no reasonable alternative design exists and a tree must be removed, suitable compensatory tree planting is required. Details including proposed species and the location of replacement planting are to be provided.

7. Development must also avoid any impact on trees on public land.

8. 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.

9. 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.

Variations

Council may consider a variation to the requirements where:

Council is satisfied a tree or other vegetation is dying or dead and is not required as habitat for native fauna.

Council is satisfied a tree or other vegetation is a risk.

Comment:

The application has been amended to address the initial concerns from Council's Landscape Officer, subject to conditions.

The proposal includes the removal of six (6) prescribed tree for the subdivision with a further twenty (20) prescribed trees to be removed to accommodate the indicate building footprints. In total one (1) of these is high retention value, twenty three (23) are medium retention value and two (2) are low retention value. Consent for the removal of the twenty (20) prescribed trees for the future dwellings would be subject to a future development application.

All of the one hundred and sixty seven (167) exempt trees are able to be removed without Council's consent as permitted in the Pittwater DCP.

A total of sixty eight (68) prescribed trees are not impacted by the subdivision or dwelling footprints and are to be retained including twenty two (22) of high retention value, forty one (41) of medium retention value, and five (5) low retention value.

Replanting is proposed at a suitable quantity and more importantly the quantity proposed for replanting is in consideration of existing prescribed trees location and canopy coverage. Conditions can be included in respect of the container sizes should consent be granted.

In summary, subject to conditions that could be imposed were the development to be approved, the application is consistent with the requirement and outcomes of the control.

B5.15 Stormwater

The control 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:

Insufficient information has been submitted to satisfy Council that the proposal will not result in stormwater runoff downstream. The proposed stormwater draining system is inconsistent with Council's Water Management for Development Policy.

The application is assessed, on merit, against the outcomes of the control:

- ***Improve the quality of water discharged to our natural areas to protect and improve the ecological and recreational condition of our beaches, waterways, riparian areas and bushland;***

Comment:

Insufficient information has been submitted to ensure that there will be no unreasonable impact on the quality of the water discharged into natural areas.

- ***Minimise the risk to public health and safety;***

Comment:

Insufficient information has been submitted to demonstrate that there will be no risk to public health and safety due to stormwater and drainage.

- ***Reduce the risk to life and property from any flooding and groundwater damage;***

Comment:

Insufficient information has been submitted to ensure there is no risk to property from groundwater damage.

- ***Integrate Water Sensitive Urban Design measures in new developments to address stormwater and floodplain management issues, maximise liveability and reduce the impacts of climate change.***

Comment:

Insufficient information has been submitted to address stormwater issues.

- ***Mimic natural stormwater flows by minimising impervious areas, reusing rainwater and stormwater and providing treatment measures that replicate the natural water cycle.***

Comment:

Insufficient information has been submitted to address issues with stormwater treatment

- ***Reduce the consumption of potable water by encouraging water efficiency, the reuse of water and use of alternative water sources.***

Comment:

Insufficient information has been submitted to address issued with the reuse of water.

- ***Protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised by development activities.***

Comment:

Insufficient information has been submitted to ensure that the Council's stormwater drainage assets are not compromised.

Having regard to the above assessment, it is concluded that due to insufficient being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

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

The relevant sections of the control are detailed below:

Access Driveways include the driveway pavements, gutter crossings, supporting retaining walls, suspended slabs and related structures located on the public road reserve between the road edge and property boundary as illustrated in Appendix 10 -Driveway Profiles.

The design of all Access Driveways shall be in accordance with the current edition of following Australian Standards:

Australian Standard AS/NZS 2890.1-2004: Parking Facilities - Part 1: Off-Street Car Parking.

Access Driveways shall be designed and located to provide adequate sight distance to maximise pedestrian and vehicular safety as follows:

minimum clear distance along the road frontage edge of kerb of 50 metres for 40 and 50 kph speed limit roads measured from a point on the centreline of the driveway 2.5 metres from the face of kerb; and minimum clear distance along the frontage footway of 5 metres, measured from a point on the centreline of the driveway 2.5 metres from the edge of footway area closest to property boundary.

Access Driveway Profile and Gradient shall conform to the profiles as illustrated in Appendix 10 - Driveway Profiles.

Access Driveways are to match with the adjacent constructed footpaths or alternatively adjacent constructed footpaths are to be adjusted to provide a continuous surface with no trip points with a maximum 1:14 (V:H) transition.

All Access Driveways on the low side of the road are to be designed and constructed such that stormwater drainage is directed away from the Access Driveway.

Comment:

The proposal seeks to widen the driveway to 5.47 metres at the kerb / site frontage for a length of 5.0 metres in length with a gradient of 12%. A passing bay is proposed for B85 and B99 vehicles which is noted to be shown on the architectural plan on the nature strip outside the site boundary.

The proposal is assessed, on merit, against the outcomes of the control:

Safe and convenient access.

Comment:

Insufficient information, including a sight line assessment, has been submitted to demonstrate that safe egressing and entry.

Adverse visual impact of driveways is reduced.

Comment:

It is not anticipated the the driveway will result in an unreasonable visual impact to the Bilgola Locality.

Pedestrian safety

Comment:

Insufficient information has been submitted to demonstrate that the proposal will not have an unreasonable impact on pedestrian safety.

An effective road drainage system

Comment:

Insufficient information has been submitted to demonstrate that the adequate road drainage can be provided for the proposal.

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

Comment:

The proposed amendments to the driveway will not require the removal of any native vegetation in the road reserve.

Having regard to the above assessment, it is concluded that due to insufficient being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B6.2 Internal Driveways

The controls require:

Internal Driveway

Internal Driveways are to be designed and constructed to provide safe access and shall have a maximum gradient of 1:5 (V:H). Recommended maximum gradient of an Internal Driveway for a distance of 2m on the approach to a garage, parking area or carport is 1:20 (V:H). There must be a minimum 2 metre long transition between the driveway and the garage/parking area/carport in accordance with the standards.

For Internal Driveways on steeply sloping or difficult sites, gradients may be increased up to 1:4 (V:H) over a maximum 20 metre length.

Provision is to be made for vehicles to enter and leave the site in a forward direction, where:

- *the internal driveway grade exceeds 1:4 (V:H);*
- *the land abuts a roadway subject to high pedestrian use (e.g. School, Commercial Centre);*
- *driveways are more than 30m in length; and*
- *the driveway enters onto a classified road.*

Internal Driveway Stormwater Drainage

Internal Driveway grades, cross falls and grated drains are to be designed to reduce discharge into the public drainage system and to maximise stormwater discharge into adjacent landscape areas by the use of grass swales and soakage pits.

The design of all Internal Driveways and ramps shall be in accordance with the current edition of the following Australian Standards:

Australian Standard AS/NZS 2890.1-2004: Parking Facilities - Off-Street Car Parking.

Australian Standard AS/NZS 2890.2-2002: Parking Facilities - Off-Street Commercial Vehicle Facilities except as qualified in this control.

Combined driveway for more than 2 dwellings: 3.0 metres minimum except where the driveway length exceeds 40 metres, a passing bay to an overall minimum width of 5.0 metres for a length of 10 metres with suitable transitions to the adjacent narrow driveway.

A variation may be considered subject to demonstration through a Traffic Assessment Report and the relevant certification that an alternate vehicular access arrangement to the site is safe for all pedestrian and vehicular traffic.

Comment:

The proposal seeks to retain the existing driveway with some modifications, including the widening of the driveway to 5.4 metres to Lower Plateau Road and inclusion of a 10 metres long tapered passing bay. The lower portion of the existing internal driveway / Right of Way (ROW), is proposed to be replaced with a suspended slab. The internal 3 metres wide steep single lane shared driveway is longer than 30.0 metres. A traffic signal system is proposed to address issues with the gradient and visibility to avoid vehicle to vehicle encounters. However, as is discussed previously the traffic light is to be positioned on an adjoining property.

The proposal is assessed, on merit, against the outcomes of the control:

Safe and convenient access.

Comment

The driveway exceeds 30.0 metres in length and due to the steep gradient and inadequate inter visibility of the ramp Council's Transport Engineer has confirmed that traffic signals are essential to avoid vehicle to vehicle encounters on the narrow and steep Right of Way. The location of traffic signal at the base of the driveway has been amended to be located in the exiting drivers line of sight to address concerns raised by Council's Transport Engineer.

The passing bay proposed near the frontage of the site has been extended and as a result of this the location of the traffic signal has been relocated to the east of the letterboxes, both the traffic signal and letterbox are located outside the property boundary on No. 339 Lower Plateau Road.

Owners consent has not been provided for the installation of these structures on the neighbouring property, therefore the traffic signal system cannot be relied upon as an acceptable method to satisfy the Engineers that safe access and convenient access can be provided and Council does not have the authority to approved the development application.

Swept path details have been submitted which shows a continuous path for the entering vehicle with the exiting vehicle stopped to give way waiting internal to the property. Insufficient information has been submitted to address Council's Transport concerns with respect to sight lines at the boundary or addressing the excessive grades at the top of the ramp, refer to detailed comments from Council's Transport Engineer in the referral section of this report.

Reduce visual impact of driveways

Comment:

Concern has been expressed in submission regarding the visual impact of the ramp / bridge between lot 2 and lot 3. The suspended driveway will not be visible from the public street and will not result in unreasonable visual impacts from the street. The retained and proposed landscaping along the site boundaries will help reduce any visual impact to the structure as viewed from neighbouring properties.

Pedestrian safety

Comment:

As above, insufficient information has been submitted to address concerns with respect to the design of the access driveway, given its length, gradient and issues with visibility and noting that the traffic signal system cannot be relied upon. Given these issues, combined with the absence of a pedestrian footpath along Lower Plateau Road, the proposal has the potential to result in unreasonable impacts on pedestrian safety.

An effective road drainage system.

Comment:

Insufficient information has been submitted to satisfy Council that adequate site drainage can be provided for the ROW and Council's Development Engineer does not support the application, refer to detailed comments in the referral section of this report.

Maximise the retention of trees and native vegetation.

Comment:

The proposal has been amended to address the concerns from Council Landscape Officer and Biodiversity Officer in terms of tree loss and impacts to native vegetation, refer to detailed discussion above.

Reduce contaminate run-off from driveways.

Comment:

As above, insufficient information has been submitted to address issues with drainage from the driveway.

Having regard to the above assessment, it is concluded that due to insufficient information being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B6.3 Off-Street Vehicle Parking Requirements

The proposal provides for two (2) car parking space and one (1) visitor space per lot. Despite compliance with the numerical controls the proposal is inconsistent with the following outcomes of the control:

- ***Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.***

Comment:

insufficient information has been provided to confirm that adequate drainage is provided to the driveway.

- ***Safe and convenient parking.***

Comment:

As discussed elsewhere within this report, insufficient information has been submitted to satisfy the Engineers that safe access can be provided to and from the site noting the long, steep narrow driveway which relies on a traffic system which locates one traffic light outside the boundary of the subject site.

Having regard to the above assessment, it is concluded that due to insufficient being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B6.7 Transport and Traffic Management

The control 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.

Comment:

As per the discussion above, the traffic signal system can not be relied upon as a suitable transport management system to address issues with the long steep narrow driveway and insufficient information has been submitted to address issues with sightlines at the site boundary and the

driveway gradient. As such, the proposal fails to provide adequate vehicular entrances to and exits from the site so that vehicles using those entrances and exits will not endanger persons using adjoining roads. It is also important to note that the traffic light is located on an adjoining property.

The proposal is assessed, on merit, against the outcomes of the control:

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

Comment:

Insufficient information has been submitted to demonstrate that the proposed three lot subdivisions will provide safe and orderly access to and from the site.

Having regard to the above assessment, it is concluded that due to insufficient information being submitted, the proposed development is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

B8.6 Construction and Demolition - Traffic Management Plan

A condition can be imposed requiring the submission and approval of a Construction Traffic Management prior to the issue of a Subdivision Work Certificate, were the development to be approved.

C1.1 Landscaping

As above, a condition can be included requiring the replanting of native species.

C1.4 Solar Access

Given the siting of the dwelling and the height and scale of the dwellings as detailed in the amended concept plans, it is not anticipated that there will be unreasonable impacts on neighbouring amenity in terms of overshadowing. Any future development application for the new dwellings will be required shadow diagrams to assess solar impacts in accordance with the control.

C1.5 Visual Privacy

The control 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.

Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.

Comment:

Concept dwelling plans have been submitted to demonstrate that three (3) dwellings can be accommodated on the site without resulting in unreasonable amenity impacts on neighbours. The concept dwelling plans have been amended, as follows, to address issues raised in respect of visual privacy:

- The southern façade of the dwelling on lot 1 overlooking the dwelling on lot 2, has been redesigned with obscure glazing, privacy screens and the deletion of upper floor habitable room window.
- The setbacks of dwellings on lot 1 and lot 2 have been increased to provide further building separation and landscape screening.
- The top floor of the dwelling on lot 2 has increase from 2.0m to 5.4m for improved privacy.
- A privacy screen has been added to the southern edge of the elevated mid floor deck of the dwelling on lot 3. In addition, highlight windows, obscure glazing and privacy screens have been added to the window to the habitable rooms in the southern elevation to avoid overlooking the neighbouring properties at 9 and 10 Yarrabee Place.

Existing and proposed landscape planting will help ensure that will be no unreasonable privacy impact between the future dwellings and the existing neighbouring properties that surround the site. Privacy issues will be further considered as part of the assessment of any future development applications for the detailed design of the three dwellings.

In summary, the amended concept plans demonstrate that three (3) dwellings are sited to ensure visual privacy is optimised and overlooking to existing residential properties is minimised in accordance with the requirements and following outcomes of the control.

- *Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*
- *A sense of territory and safety is provided for residents.*

C1.6 Acoustic Privacy

Issues are raised in the submission regarding acoustic impacts as a result of cars waiting at the traffic light at the top of the entrance to the site. Given the scale of the development it is not anticipated that cars waiting at the traffic light at the entrance / exit to the site will cause unreasonable acoustic impacts to neighbours.

C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities

The controls require:

(i) Off-Street Parking Requirements

The design of each individual lot created within the subdivision is to provide for off street parking facilities compatible with the proposed development uses for that lot.

(ii) Access Driveways (ie; driveway crossings)

A safe and functional access driveway must be designed and constructed from the road edge/kerb and gutter to the lot boundary for each individual lot within the subdivision as part of the subdivision works. Only one driveway access to a public road is permitted for each lot.

(iii) Internal Driveways

The design of each individual lot created within the subdivision is to provide for an internal driveway compatible with the proposed development uses for each individual lot. Where an internal driveway is located within a 'right of way' or proposed 'right of way', the internal driveway is to be designed and constructed as part of the subdivision works.

Comment:

The proposal is assessed on merit against the outcomes of the control:

Safe and functional access for vehicles, cyclists and pedestrians.

Comment:

As discussed above, insufficient information has been submitted to address concerns with regard to the gradient and sightlines of the driveway. Furthermore, the traffic signal system cannot be relied upon given the location of the traffic signal outside the site boundary and Council does not have the power to approve the development application as owners consent has been provided for the installation of the traffic light at No. 339 Lower Plateau Road. As such, the proposal fails to demonstrate that safe and function access can be provided for vehicles, cyclists and pedestrians.

Safe and convenient access and parking is provided on each lot.

Comment:

Insufficient information has been submitted to satisfy Council that safe access can be provided to the parking via the long, steep and narrow driveway.

Having regard to the above assessment, it is concluded that the proposed development, due to insufficient information being submitted, is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C4.3 Subdivision - Transport and Traffic Management

The controls require:

Where development generates pedestrian, traffic and transport requirements in excess of the capacity of the road and transport network, the capacity of the surrounding public infrastructure and transport network is required to be upgraded to at least match the additional demands generated by the development.

Any improvement works external to the development site, required to ensure the development complies with this control, must be provided as part of the development at the full cost to the applicant.

A traffic assessment is to be undertaken in accordance with the RTA Guidelines for Traffic Generating Developments or similar guidelines.

All proposed traffic facilities must comply with the Roads and Maritime Services and/or relevant Australian Standards and be approved by Council's Traffic Committee when on local roads or the Roads and Maritime Services on classified roads.

Comment:

The amended plans show a passing bay located within the public domain, the proposal is assessed against the outcome:

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

Comment:

As discussed throughout this report, insufficient information has been provided to demonstrate that safe access can be provided to and from the site with no unreasonable impacts on the surrounding road network.

Having regard to the above assessment, it is concluded that the proposed development, due to insufficient information being submitted, is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C4.6 Service and delivery vehicle access in subdivisions

The control requires:

Roads and accessways within the subdivision are to be designed and constructed to accommodate access for waste, recycling, service, emergency and delivery vehicles.

The proposal is assessed, on merit, against the outcomes of the control:

Safe and adequate service, delivery and removal of materials by vehicles within the development.

Comment:

Concern is expressed about the ability for the site to accommodate emergency and service vehicles given the length and gradient of the narrow single access driveway, the constrained turning ability at its base and also noting the absence of any kerbside street parking. In addition, concern is expressed in respect to the safety of residents wheeling bins up the steep single width driveway to the street frontage for kerbside collection and the potential for encounters with entering vehicles.

The application has not provided a sufficient response to address these safety concern, as such, the proposal is inconsistent with the outcome of the control as Council cannot be satisfied that the driveway has been suitably designed to accommodate serving vehicles, including loading activities and deliveries, and emergency vehicles.

In addition, insufficient information has been submitted to satisfy Council that adequate stormwater draining can be provided to service the three dwellings.

Having regard to the above assessment, it is concluded that the proposed development, due to insufficient information being submitted, is not consistent with the aims and objectives of PLEP 2014, Pittwater 21 DCP and the objectives specified in s.1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

C4.7 Subdivision - Amenity and Design

Concept dwelling plans have been submitted which demonstrates that the three (3) dwellings will achieve a level of amenity commensurate with the locality and the desired character of the area. Furthermore, the proposal has been amended to ensure that the impact on the environment of the completed development (including buildings to be constructed on the proposed lots) has an acceptable impact on the environment.

Despite this, the proposal is assessed against the following outcome of the control:

Adequate access and services.

Comment:

Insufficient information has been submitted to demonstrate that adequate access and services are provided.

D3.6 Front building line

Concept dwelling plans have been submitted which demonstrate that the three future dwelling can be positioned on each lot and achieve compliance with the 6.5 metres front setback control.

D3.7 Side and rear building line

Concept plans have been submitted which demonstrate that the three future dwelling can be positioned on each lot and achieve compliance with the 1.0 metres and 2.5 metres side setback control. The dwellings are positioned to have generous rear setbacks of 46.0 metres (lot 1), 43.9 metres (lot 2) and 18.0 metres (lot 3) respectively which far exceeds the minimum 6.5 metres required.

D3.9 Building envelope

Detailed description of non-compliance

The control requires buildings to be sited within an envelope measured 3.5 metres on the side boundary and an angle of 45 degrees.

The concept plans confirm that there is no building envelope breach to concept dwelling on lot 2.

The following minor building envelope breach a triangular area (0.3 metres in height x 3.3 metres in length), is noted on the southern elevation of concept dwelling on lot 1, refer to image below.

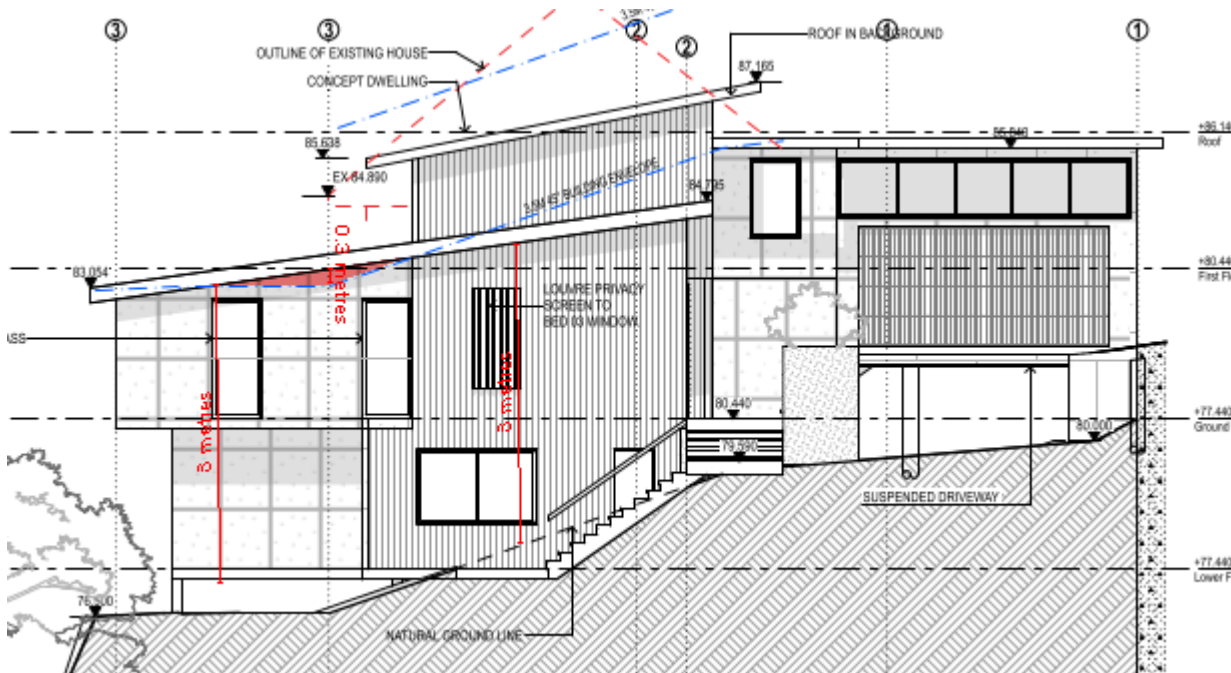


Figure 1: Southern elevation of the concept dwelling for lot 1 showing the building envelope breach in red.

The proposal has been amended to reduce the extent of the envelope breach on the north elevation of the dwelling on lot 3 to a minor triangular area on the first floor which measures 1.0 metres in height x 2.7 metres in length and a minor triangular area which relates to the ground level study and entry which measures 0.7 metres in height x 3.5 metres in length, refer to image below.

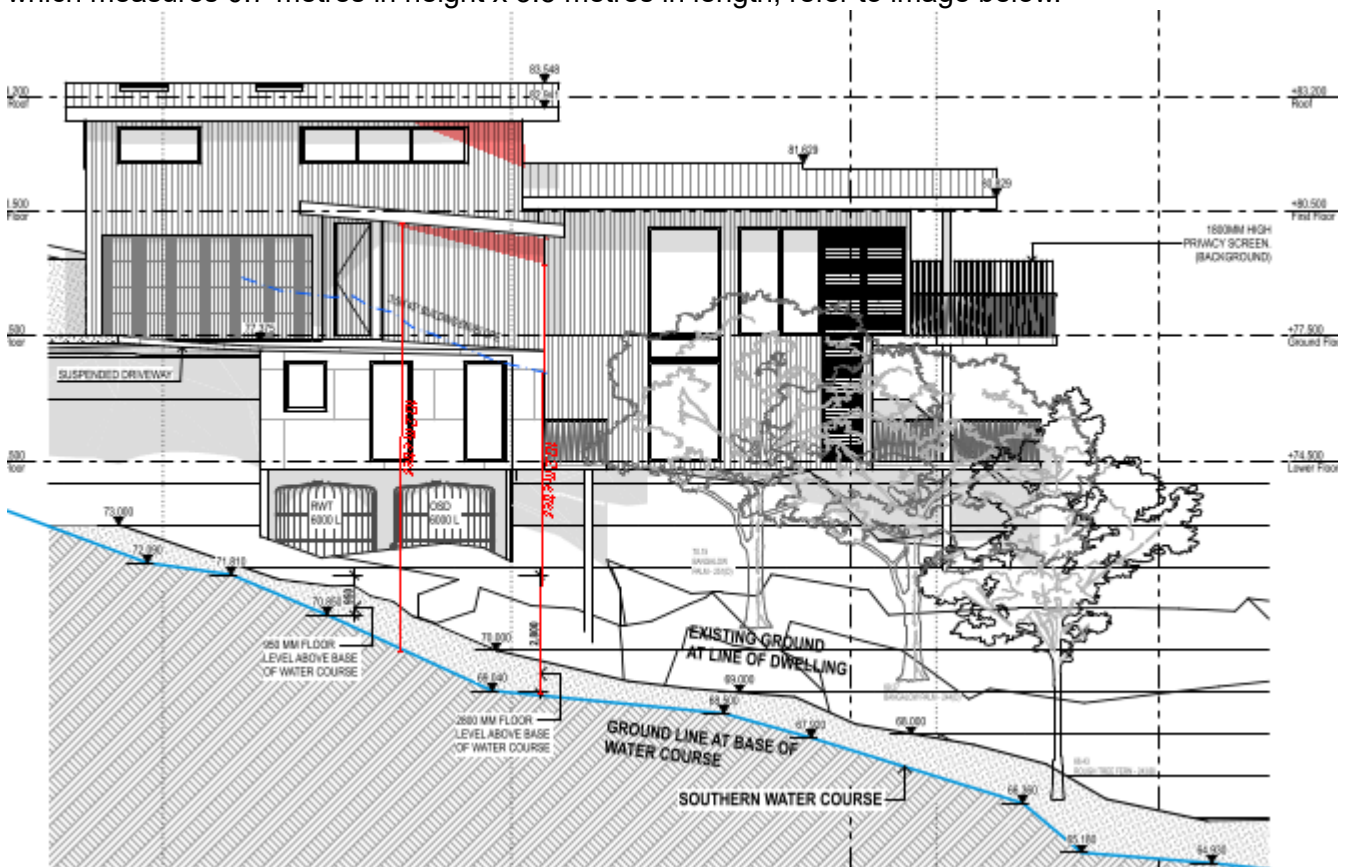


Figure 2: North elevation of the concept dwelling for lot 3 showing the building envelope breach in red.

Merit consideration

With regard to the consideration of a variation, the proposed development is considered against the underlying outcomes of the control as follows:

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

Comment:

The minor breach of the envelope will not lead to the development being inconsistent with the desired future character of the Locality.

- ***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 concept plans demonstrate that the height, scale and density of the future dwellings area appropriate. All three dwellings comply with the 8.5m height limit and sit below the height of the trees. It is also noted that the site is a battle-axe allotment and the future dwellings will not be visible from Plateau Road.

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

Comment:

The submissions raise concerns in respect to siting of the development fails to respond to the existing natural environment, including the natural watercourse and the trees.

Council's Landscape Officer confirms that the amended plans have modified the proposed building and excavation footprint in proximity to the natural watercourse and this is supported to reduce the environmental impacts upon the watercourse, in terms of tree retention and/or watercourse restoration through native vegetation rehabilitation.

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

Comment:

The submissions raise concerns in respect to the excessive bulk and scale of the development.

The concept plans demonstrate that three dwellings can be achieved on the lots in compliance with the following built form controls height of building, front setback, rear and side setbacks and landscape open space. As such, it is considered that the bulk and scale of the dwellings are acceptable despite the minor breach of the envelope control.

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

Comment:

The submission raise concerns that the current views towards the existing landscaping will be lost and replaced with views towards the dwellings. It is agreed that there will be a change in the outlook from the neighbouring properties, however, the existing retained trees and

replacement planting will soften the views towards the new dwellings.

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

Comment:

The submissions raise concerns that the proposal will result in unreasonable amenity impacts in terms of privacy and overshadowing.

The proposal has been amended to address issues with respect to privacy with the addition of privacy screens, high-level windows and increased separation. The concept plans demonstrate that three dwellings can be accommodated on the site with no unreasonable impacts on neighbouring amenity.

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

Comment:

As discussed above, the proposal has been amended to reduce the amount of trees required to be removed for building footprint of the three dwellings as detailed in the concept plans. The proposal retains a significant number of trees and that were the development to be approved, conditions could be imposed which require replacement planting which will help enhance and visually reduce the built form.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$3,500 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$350,000.

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 2021;

- 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
- Consistent 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

PLANNING CONCLUSION

This Development application for demolition work, removal of six (6) trees, and torrens title subdivision of one (1) lot into three (3) lots, including the construction of the internal driveway and stormwater work, has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the application generating more than ten (10) unique submissions by way of objection.

The concerns raised in the objections in respect of environmental / biodiversity issues are capable of being addressed, subject to conditions if the development was to be approved. The submission of amended plans which reduced the footprint of the indicative dwellings and the extent of the excavation in conjunction with increased setbacks to the watercourses / riparian corridors has mitigated many issues. Whilst the proposal requires the removal of six (6) prescribed trees, sixty-eight (68) prescribed trees will be retained, with these trees being further supplemented replanting of twelve (12) native canopy trees in addition to vegetation management works, which would be required in the event that the development is approved. The height, scale, bulk and massing of the concept dwellings have been amended to demonstrate that three (3) dwellings can be accommodated on the site, with no unreasonable impacts on neighbouring amenity, in compliance with the applicable Pittwater LEP and Pittwater DCP built form controls.

Despite this, the assessment has found that the site is not suitable for the proposed three (3) lot subdivision as insufficient information that adequate services can be provided and that there will be no impacts on Aboriginal Heritage.

Specifically, insufficient information has been submitted to satisfy Council that adequate vehicular safe access can be provided to and from the site and the traffic signal system cannot be relied upon noting the gradient of the driveway and issues with visibility. In addition, the amended proposal relocates a traffic signal onto No. 339 Lower Plateau Road, as owners consent has not been provided.

Insufficient information has been submitted to satisfy Council that adequate stormwater and drainage can be provided in accordance with Council's Water Management controls. Finally, a preliminary inspection ('due diligence') Aboriginal Heritage report has not been submitted, as such it has not been possible to consider the effects of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an

adequate investigation and assessment.

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 DA2024/0303 for the Demolition of existing structures, removal of trees and subdivision of one lot into three lots. on land at Lot 5 DP 222134,337 Lower Plateau Road, BILGOLA PLATEAU, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(c) of the of the Environmental Planning and Assessment Act 1979, the application has not been accompanied by the required information for a Development Application.

Particulars:

- i. The application has not been accompanied by Land Owners Consent from No.339 Lower Plateau Road.
- ii. The development application proposes to use a traffic signal system to address issues with the steep gradient and sight lines on the driveway ramp. The amended proposal increases the length of the passing bay which in turn relocates a traffic light outside the site boundary into No. 339 Lower Plateau Road.
- iii. As such, the development application does not contain all the information and documents required by Clause 24(1)(b) of the Environmental Planning and Assessment Regulation 2021 and the development application has not been made with the consent of the owners of No.339 Lower Plateau Road, as required by Clause 23(1)(b) Environmental Planning and Assessment Regulation 2021.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the matter for consideration prescribed by subclause 8 of Clause 5.10 of the Pittwater Local Environmental Plan 2014.

Particulars:

- i. The site to which the application relates is a bushland block with a natural watercourse. Such sites are known to be favorable to Aboriginal occupation and therefore, the likelihood of Aboriginal relics.
- ii. Subclause 8 of Clause 5.10 of the Pittwater Local Environmental Plan requires the consent authority to consider the effect of the development of a known Aboriginal object or the reasonable likelihood of an object by means of investigation.
- iii. No Aboriginal due diligence report has been provided to Council. As such there is no information to consider the effect of the development as required by subclause 8 of Clause 5.10 of the Pittwater Local Environmental Plan 2014.

3. Pursuant to Section 4.15(1)(d)(iv) of the of the Environmental Planning and Assessment Act 1979, the site is considered unsuitable for the proposed development due to insufficient information been submitted to satisfy Council that essential services, including safe access and stormwater and drainage, can be provided and that there will be no impact on Aboriginal heritage. The proposal is therefore inconsistent with the provisions of Clause 4.1 (e) Minimum subdivision lot sizes, Clause 5.10 (8) (a) and (b) Heritage Conservation, Clause 7.2 (f) and (i) Earthworks, Clause 7.7(a) Geotechnical hazards, Clause 7.10 (d) and (e) Essential Services of the Pittwater LEP and the provisions of A4.3 Bilgola Locality, Clause B1.4 Aboriginal Heritage

Significance, Clause B2.2 Subdivision - Low Density Residential Areas, Clause 5.15 Stormwater, Clause B6.1 Access driveways and Works on the Public Road Reserve, Clause B6.2 Internal driveways, Clause B6.7 Transport and Traffic Management, Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities, Clause C4.6 Service and delivery vehicle access of the Pittwater 21 Development Control Plan 2014.

Particulars:

- i. Insufficient information has been submitted to satisfy Council that a safe and adequate vehicular access to and from the site can be provided that will not endanger persons using the driveway and the adjoining roads, including pedestrians and emergency vehicles. Specifically, insufficient information has been submitted to address issues with sightlines at the site boundary and the driveway gradient. In addition, the traffic light signal system cannot be relied upon as a solution to addressing issues with the long, narrow and steep driveway as owners consent has not been provided for the location of the traffic lights at No. 339 Lower Plateau Road.
 - ii. A preliminary investigation ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional has not been submitted, as such it has not been possible to consider the effects of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment.
 - iii. Insufficient information has been submitted to satisfy Council that the development will appropriately manage stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land.
4. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars:

- i. Insufficient information to satisfy Council that safe access and adequate stormwater and drainage can be provided.
- ii. Insufficient information to satisfy Council that there will be no impacts on Aboriginal heritage.