

18 & 20 The Serpentine, Bilgola Beach

Statement of Environmental Effects

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18 & 20 THE SERPENTINE, BILGOLA BEACH

Construction of a carport and car parking platform
with an office/studio below

27 March 2023

Prepared under instructions from
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1.0 INTRODUCTION

This Statement of Environmental Effects has been prepared in support of a Development Application made under Part 4 of the Environmental Planning and Assessment Act 1979 for the construction of a car parking platform with an office/studio below and a carport which is proposed at 20 The Serpentine but relates to the existing development at 18 and 20 The Serpentine, Bilgola Beach.

The proposed development is detailed on architectural plans prepared by Gartner Trovato Architects. The application is also accompanied by the following:

- Survey Plan - LTS
- BASIX Certificate - Gartner Trovato Architects
- Stormwater Management Plans - Barrenjoey Consulting Engineers
- Geotechnical Report - Crozier Geotechnical Consultants
- Bushfire Report - Bushfire Planning Services
- Traffic Impact Assessment - PDC Consultants
- Arboricultural Impact Assessment - Treeism Arboricultural Services

This Statement has been prepared pursuant to section 4.12 of the Environmental Planning and Assessment Act 1979 and clause 24 of the Environmental Planning and Assessment Regulation 2021. The Statement provides an assessment of the development proposal having regard to the relevant legislative context, the social, economic and environmental impacts of the development, the potential amenity impacts of the development on the surrounding locality and the measures proposed within the application to mitigate such impacts.

The Statement details the proposed development's compliance against applicable environmental planning instruments and development control plans including:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Pittwater Local Environmental Plan 2014
- Pittwater 21 Development Control Plan

The Statement demonstrates the proposed development is consistent with the aims and objectives of the relevant environmental planning instruments and development control plan. The Statement also demonstrates the proposal is compatible with the character of the locality and minimises any potential impacts on the amenity of the adjoining properties.

2.0 SITE DESCRIPTION AND LOCATION

2.1 Site Description

The site is located in the suburb of Bilgola Beach which is located within the Northern Beaches Local Government Area.

The site of the existing dwelling at 18 and 20 The Serpentine, Bilgola Beach is legally described as Lots 4A and 4B in DP 361236 and Lot 5 in DP 13497. The proposed works are located on land known as 20 The Serpentine (Lot 5 in DP13497). An aerial view of the site and surrounds is provided at Figure 1.



Figure 1:

Aerial View of the site (Source: Six Maps, NSW Land Registry Services 2023)

The site of the existing dwelling is an irregular shaped allotment within an area of 1,977 square metres. The site has a 50.29 metre frontage to The Serpentine. The north-eastern boundary has a length of 60.655 metres and the south-western boundary has a length of 64.14 metres. The rear boundary has a length of 40.11 metres.

The site is currently improved by a two-storey dwelling with an attached garage which provides parking for two vehicles. A habitable space is provided below the existing garage. Vehicular access to the site is provided via a driveway located in the south-west corner of the site. The existing garage is located on Lots 4A and 4B in DP 361236.

The topography of the site is characterised by a moderate fall from the northern boundary to the southern boundary, with the front setback terraced to provide a usable and accessible garden area. A retaining wall has been constructed along the majority of the northern boundary of the site.

The site adjoins a public reserve to the north-east which provides pedestrian access from The Serpentine to Allen Avenue and the northern end of Bilgola Beach.

The site adjoins 16 The Serpentine, Bilgola Beach to the south-west which is improved by a two-storey dwelling with a double garage located within the front setback.

The northern side of The Serpentine, opposite the site, is a landscaped embankment which adjoins the southern side of Barrenjoey Road.

Photograph 1:

The site of the existing dwelling and the adjoining public reserve as viewed from The Serpentine



Photograph 2:

View to the north-east along The Serpentine with the frontage of the site on the right

Photograph 3:

View of the existing vehicular entrance to the site



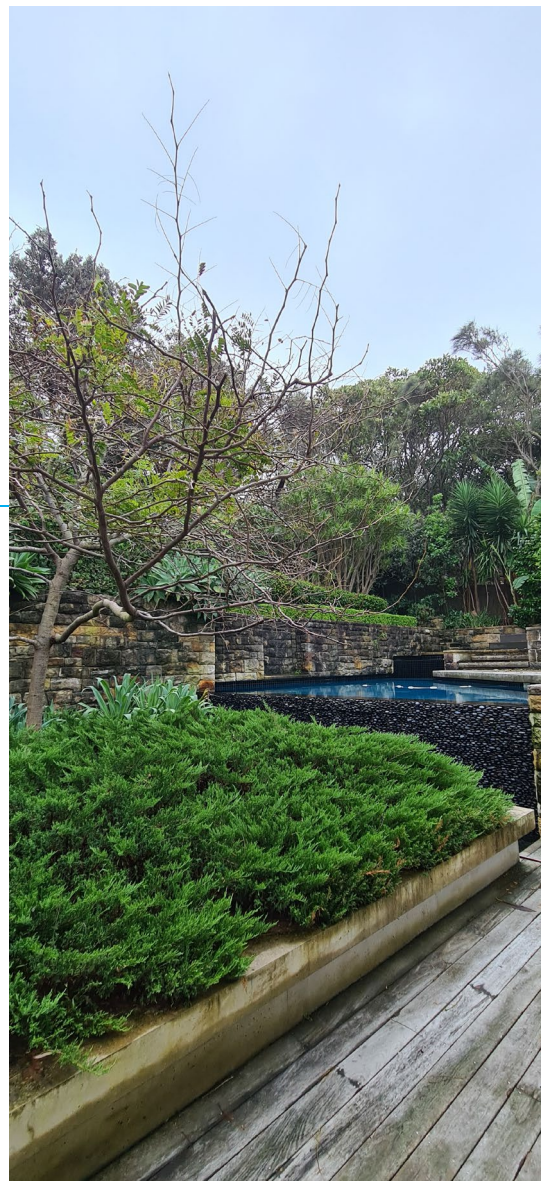


Photograph 4:

View to the northern corner of the site showing the pool area on the north-west side of the existing dwelling

Photograph 5:

View to the northern corner of the site showing the pool area on the northern side of the existing dwelling





Photograph 6:

Garage with habitable space below in the south-west corner of the site

Photograph 7:

Habitable space below the garage



Photograph 8:

16 The Serpentine

Photograph 9:

14 The Serpentine



Photograph 10:

Access driveway to 12 The Serpentine

3.0 DEVELOPMENT PROPOSAL

3.1 History of Development on the Site

3.1.1 Original Development on the Site

The site was purchased by the current owners in 1995. At the time of purchase, the site was improved by a dwelling house across the three allotments with an adjoining double storey garage and a habitable space below in the south-west corner of the site.

The current owner of the site has been advised by members of the family who built the dwelling that was on the site at the time the site was purchased, that the house was constructed in around 1939. An 'Informal information request' was made to the Northern Beaches Council under the *Government Information (Public Access) Act 2009* (GIPA Act) to view consents to development related to 18 or 20 The Serpentine, Bilgola (prior to BA0456/97) in order to establish the date the dwelling was constructed and whether any other approvals had been granted for development on the site. In an email dated 13 September 2021 Council advised that after a thorough search of Council records, no consents, plans or records were found for the property address. Council advised that it appears the original house was built in/before the 1950s however there are no Council building files for Pittwater properties built prior to 1963.

The following information supports the construction of the original dwelling on the site in the late 1930s/early 1940s:

- A land sale plan for the Avalon Beach Estate created in c1926 shows the site as one of the first allotments in Bilgola Beach between the reserve for Beach Access and Bilgola Avenue (refer to Figure 2).
- Aerial photographs from 1941 show structures on the site as shown in Figure 3.
- Historical photographs of Bilgola Beach show a dwelling on the site (Figures 4 and 5).

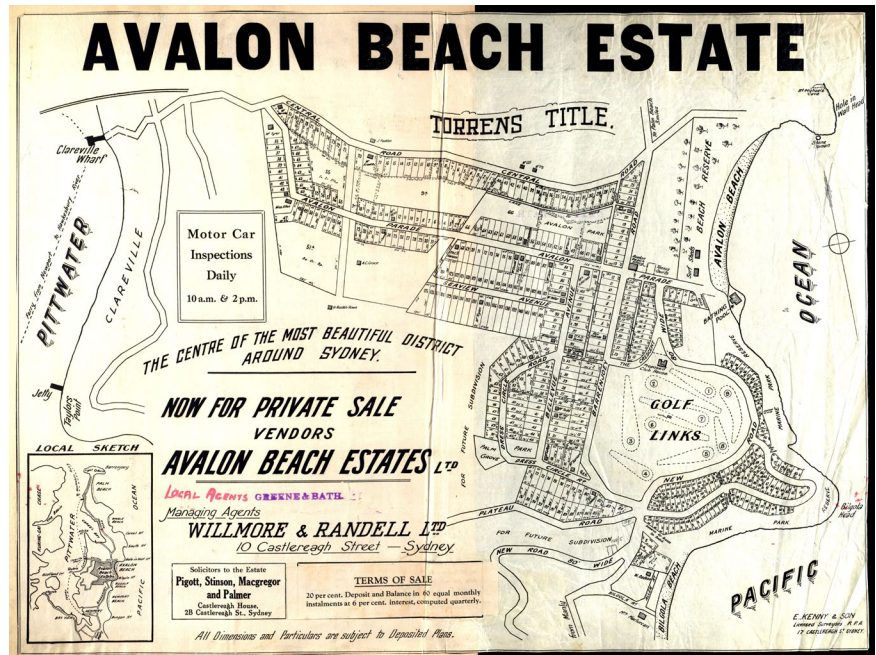


Figure 2:

c1926 Land Subdivision Plan for Avalon showing the site as part of the original residential lots in Bilgola Beach between the reserve for Beach Access and Bilgola Avenue



Figure 3:

1941 Aerial Photograph of Bilgola Beach (Source: Geoscience Australia Australian Government Aerial Photography)

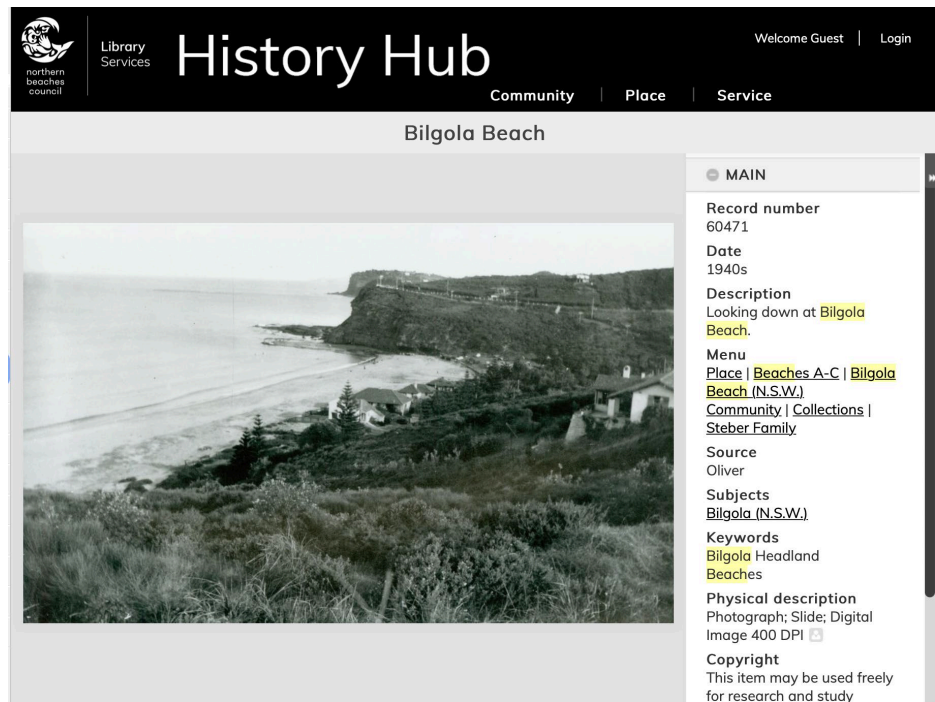


Figure 4:

Photograph showing the house on the subject site to the far right (dated by the Library Services History Hub as 1940s)



Figure 5:

Bilgola Beach image 1942 (Source: Northern Beaches Library Services History Hub)



Figure 6:

Real estate brochure from the sale of the property in 1995

3.1.2 Current Development on the Site

Building Application 0456/97 for the construction of a new dwelling on the site was approved on 29 October 1997. Construction commenced on the dwelling approved under Building Application 0456/97 shortly after the approval was granted and was completed in 1998.

There has historically been a garage and habitable space located in the location it was approved under BA0456/97. The Statement of Environmental Effects dated 29 May 1997 prepared by John Andrews International Pty Ltd that was prepared to accompany Building Application 0456/97 for a new dwelling on the site describes the existing development on the site as:

'Current development of the site consists of a double storey stepped level brick and tile residence with an adjoining double storey garage with a garden flat under.' (Page 1)

The SEE described the proposed 'Vehicle Access and On-site Parking' arrangements as follows:

'Access to the site is from The Serpentine using the existing driveway location which it is proposed to reconstruct to the Council's requirements. Due to the steep fall of the site the existing on-site built up visitor parking and turning area is retained with a new garage sited in the same location and at the same level as the existing garage.'

3.1.3 Road Reservation Zone

The exact date the land adjoining The Serpentine was identified and zoned as a road reservation is unknown. The Cumberland County Planning Scheme Map dated 8 March 1948 only shows a 'Living Area' zone applying to the Bilgola Beach residential area.

By 1985 land adjoining The Serpentine was zoned 9(d) Arterial Road Reservation in accordance with the Land Zoning Map for the Warringah Local Environmental Plan 1985 (refer to Figure 8). The remainder of the site was zoned Residential 2(a).

At the time BA0456/97 was approved, the garage and habitable space below were on land zoned 9(d) Arterial Road Reservation under PLEP 1993.

The garage, and habitable space below the garage, is located on land currently zoned SP2 Infrastructure under PLEP 2014 and is reserved for acquisition by Transport for NSW.

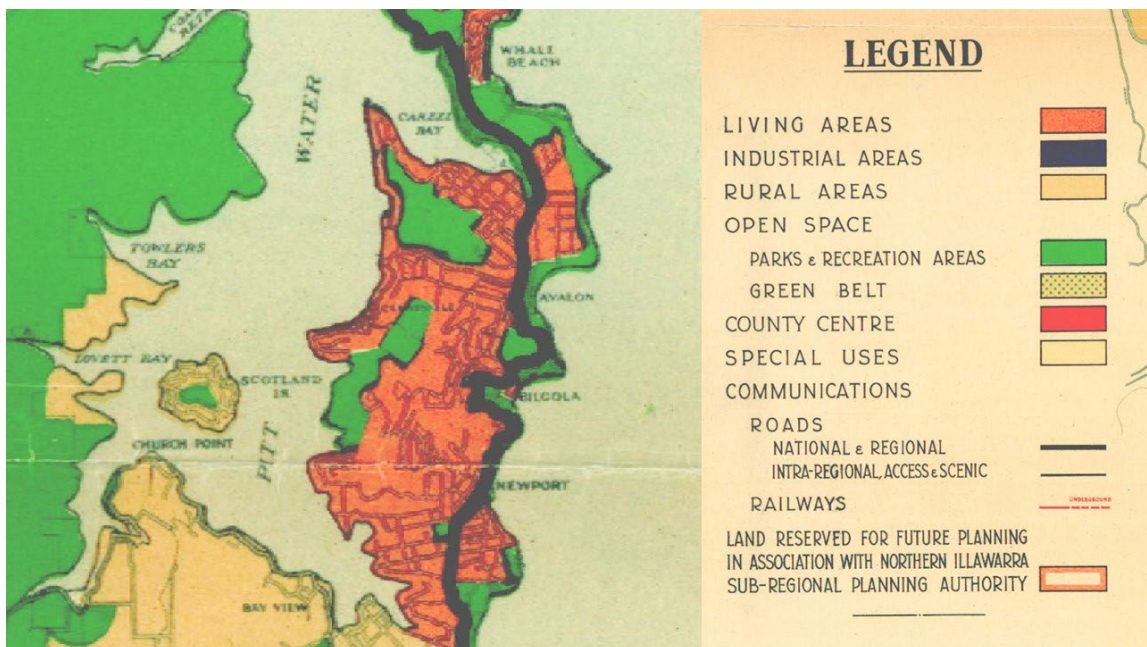


Figure 7:

County of Cumberland Planning Scheme Map

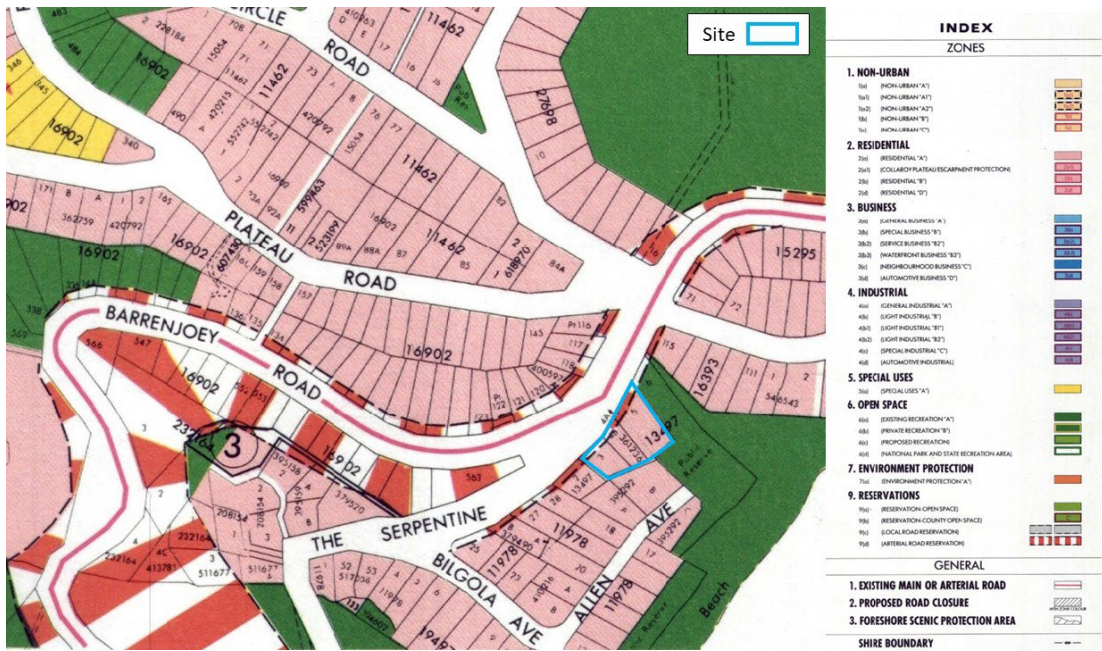


Figure 1:

WLEP 1985 Land Zoning Map



Figure 9:

Extract from the PLEP 1993 Land Zoning Map

3.2 Background

A pre-lodgement meeting was held with Council staff on 9 December 2021 to discuss the proposed construction of a studio and car parking structure on the site.

Following the pre-lodgement meeting the design was amended to incorporate feedback from the project traffic consultant and arborist.

The amended design was presented to Transport for NSW to obtain confirmation that the land zoned SP2 Infrastructure and identified on the Land Reservation Acquisition Map under PLEP 2014 is no longer required by Transport for NSW for road widening. Transport for NSW have advised that a formal assessment of the proposal will be undertaken once the development application has been lodged.

3.3 Proposed Development.

The development application seeks consent for the construction of a parking structure, carport and an undercroft studio/office space on Lot 5 DP 13497 (20 The Serpentine). The carport and studio/office space are ancillary to the existing dwelling on the site. New stairs are proposed to provide access from a new pedestrian entry gate, the car platform and the studio/office space to the existing dwelling.

The car platform will provide sufficient space to provide parking for two vehicles, parallel to the front boundary. The platform also provides sufficient manoeuvring space and a mechanical vehicle turntable to enable vehicles to enter and leave the site in a forward direction. The additional on-site parking is required on the site as there is no on-street parking available in the vicinity of the site and there are only two on-site parking spaces provided for the residents of the dwelling on the site and visitors. The additional access point is also required as there is no vehicular access currently available to Lot 5 DP 13497.

The proposed structure has been located to minimise the impact of the development on the trees on the site and on the adjoining public land. Seven prescribed or Council managed street trees are proposed to be removed as detailed in the Arboricultural Impact Assessment (AIA) prepared by Treeism Arboricultural Services that accompanies the application. Tree protection measures are outlined for seven trees that are located both on the site and on Council managed land.

The building has been designed and located to minimise the visual impact of the structure on the adjoining public reserve. The setback of the structure has been increased following feedback from Council from a minimum of 900mm from the north-east boundary to a minimum of 3.3 metres from the north-east boundary. A recessive colour palette is proposed that incorporates dark and earthy materials that will blend with the surrounding landscape.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Environmental Planning and Assessment Act 1979

4.1.1 Section 4.14 Certain Bushfire Prone Land

Pursuant to section 4.14(1) of the EP&A Act, development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land) unless the consent authority:

(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled *Planning for Bush Fire Protection* prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (***the relevant specifications and requirements***), or

(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

The site is identified as Vegetation Buffer on the Northern Beaches Bushfire Prone Land Map. A Bushfire Report has been prepared by Bushfire Planning Services Pty Ltd accompanies the application. The report concludes that based on the implementation of the recommendations contained within the report, the development can comply with the requirements of AS3959-2018 and 'Planning for Bushfire Protection'. The report includes a Bushfire Risk Assessment Certificate which has been completed by Matthew Willis who is an accredited consultant.

4.1.2 Section 4.15 Evaluation

In accordance with section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) in determining a development application a consent authority is to take into consideration the relevant matters listed in section 4.15(1). The provisions of section 4.15(1) have been addressed in sections 4.3, 4.4 and 5 of this Statement.

4.1.3 Division 4.11 Existing Uses (Sections 4.65-4.70)

This section of the Statement outlines the applicability of the existing use rights provisions of division 4.11 of the EP&A Act.

Section 4.65 Definition of "existing use"

Division 4.11 of the EP&A Act relates to existing uses. 'Existing use' is defined in clause 4.65 of the Act as:

(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and

(b) the use of a building, work or land—

(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and

(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

The proposed development meets the definition of “existing use” as it applies to Division 4.11 in that:

- There is evidence of a lawful purpose being located on the site since before 1941 as detailed in Section 3.1 of this Statement. The exact date the land adjoining The Serpentine was identified for land acquisition is not known however it was zoned 9(d) Arterial Road Reservation under the WLEP 1985.
- A new house and garage were approved on 29 October 1997 to replace the original house under the provisions of Pittwater Local Environmental Plan 1993.
- A Property Report dated 30 May 1997 indicates the site was zoned as Part Residential 2(a) and Zone 9(d) Arterial Road Reservation under Pittwater Local Environmental Plan 1993 (PLEP 1993). An extract of the PLEP 1993 Land Zoning Map, which confirms this former zoning of the site, is included in this Statement as Figure 9.
- In accordance with the Development Control Table in section 9 of the PLEP 1993, dwelling houses were permitted with consent in the Residential 2(a) zone. Zone 9(d) Arterial Road Reservation did not permit any residential development as follows:

Zone No 9 (d) (Arterial Road Reservation)

1 Without development consent

Drainage; new arterial roads and widening of existing arterial roads.

2 Only with development consent

Utility installations (other than gas holders or generating works).

3 Prohibited

Any purpose other than a purpose for which development may be carried out without development consent or only with development consent.

- Despite the limitation of the 9(d) zone, clause 28 of the PLEP 1993 provided that until the land within Zone 9(d) is acquired by the public authority concerned, the Council may, consent to the carrying out of development on that land **for any purpose**, subject to the relevant criteria and conditions of clause 28 being met. This provision remained in force until the Plan was repealed by PLEP 2014 which was notified on 30 May 2015 and commenced 28 days after publication on the NSW legislation website.
- Whilst the Council’s Building Assessment Report for BA0456/97 does not address the permissibility issue (in the pages made available through GIPA) the approval of the BA and

specifically the garage and habitable space on land zoned 9(d) indicates that the preconditions of clause 28 and mandatory considerations were satisfied.

- The provisions of PLEP 2014 had the effect of prohibiting a dwelling house on the portion of the site zoned SP2, with the exception of development for the purpose of enabling access to a dwelling house (as permitted by section 24 of Schedule 1).
- As the dwelling on the site was constructed in 1997-1998 and provisions came into effect in 2015 which prohibit a dwelling house on the site, the existing residential development in the SP2 zone (being the garage and habitable space below), meets the requirements for an existing use.

Section 4.66 Continuance of and limitations on existing use

Section 4.66(1) of the EP&A Act provides that except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.

There has been a dwelling house on the site since at least 1941. The house was rebuilt in 1997/98 with a garage and habitable space below in the area now identified as an SP2 zone. The dwelling has been continuously occupied since the date the new dwelling was completed, which was before the commencement of PLEP 2014 which had the effect of prohibiting a dwelling house on land in the SP2 zone.

Section 4.67 Regulations respecting existing use

Section 4.67(1) of the EP&A Act provides that the regulations may make provision for or with respect to existing use and, in particular, for or with respect to –

- the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and
- the change of an existing use to another use, and
- the enlargement or expansion or intensification of an existing use.
- (Repealed)

The proposed development involves the enlargement and intensification of the existing residential use in the SP2 zone. The provisions of the EP&A Regulations relating to existing uses are addressed in section 4.2 of this Statement.

Clauses 4.67(2) and (3) govern the relevance of the provisions of environmental planning instruments to a development application that benefits from existing use rights and relies on the incorporated provisions.

(2) The provisions (in this section referred to as ***the incorporated provisions***) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.

(3) An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than

incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.

The planning principle for the assessment of proposals on land with existing use rights established in *Fodor Investments v Hornsby Shire Council [2005] NSWLEC71* provides guidance on the considerations that should inform the assessment of existing use rights applications as clause 4.67(3) provides that the provisions of planning instruments that derogate or detract from 4.67(1) do not apply to the assessment of applications on sites with existing use rights. The Planning Principle is set out below.

17 Four questions usually arise in the assessment of existing use rights developments, namely:

· **How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?**

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.

· **What is the relevance of the building in which the existing takes place?**

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

· **What are the impacts on adjoining land?**

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

· **What is the internal amenity?**

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be

judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Whilst it is clear from the legislation that planning controls such as height and setback controls do not apply, the relationship of the development with its context, the impacts of the building on adjoining land and the internal amenity remain relevant considerations.

Whilst the planning controls do not technically comply to the proposed development, this Statement addresses the proposal's consistency with the relevant provisions of the PLEP 2014 and P21DCP to demonstrate the proposal is consistent with the desired future character of the locality and does not result in any unreasonable impacts on the adjoining land. It should be noted that the proposal complies with the relevant planning controls despite having the benefit of existing use rights.

4.2 Environmental Planning and Assessment Regulation 2021

In accordance with clause 24 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation) a development application must be in the approved form and contain all the information and documentation required by the approved form and the Act and the Regulation.

'Approved form' is defined in the Dictionary of the Regulation as a form approved by the Planning Secretary and published on the NSW planning portal.

The 'Application Requirements' dated March 2022 and approved by the Planning Secretary's delegate on 28 February 2022 lists the mandatory documents and drawings that are part of the approved form.

4.2.1 Information requirements for development applications

The following table sets out how relevant requirements for development applications set out in the 'Application Requirements' guideline and summarises the documentation provided to satisfy each requirement.

Requirement	Documentation
a. the name and address of the applicant	The applicant details are provided on the Portal at lodgement.
b. a description of the development to be carried out	Section 3 of this Statement provides a description of the development to be carried out. The architectural plans and supporting documentation detail the proposed development.
c. the address, and formal particulars of title, of the land on which the development is to be carried out	The site is identified in section 2 of this Statement. The Survey Plan also provides this information.
d. an indication as to whether the land is, or is part of, critical habitat	The land is not critical habitat.
e. an indication as to whether the development is likely to significantly affect	The development is not likely to significantly affect threatened species, population or ecological

Requirement	Documentation
threatened species, populations or ecological communities, or their habitats, unless the development is taken to be development that is not likely to have such an effect because it is biodiversity compliant development	communities as noted in the AIA.
f. the estimated cost of the development	A cost summary report accompanies the application.
g. evidence that the owner of the land on which the development is to be carried out consents to the application, but only if the application is made by a person other than the owner and the owner's consent is required by the Regulation	Owners' consent accompanies the application.
h. a list of the documents accompanying the application	Section 1 of this Statement includes a list of the documents that accompany the development application.
i. a Statement of Environmental Effects.	This document is the Statement of Environmental Effects.
j. a site plan of the land.	A Site Plan has been prepared by Gartner Trovato Architects (Drawing A.01).
k. drawings of the development.	Architectural plans have been prepared by Gartner Trovato Architects.

Part 1.1 of the 'Application Requirements' guideline includes a table which sets out required documents for specific types of development. The following table summarises how the documentation requirements of Table 1 'Essential document requirements for a development application or modification application' of the Guide have been satisfied.

Essential document requirements	Documentation
Applications that require or involve:	
Arrangements before consent can be granted under an environmental planning instrument a. Documentary evidence that such arrangements have been made	This Statement addresses the relevant preconditions to development consent.
Building work to alter, expand or rebuild an existing building b. A scaled plan of the existing building	A Survey Plan accompanies the application.
Change of use of a building (other than a dwelling-house or a building or structure that is ancillary to a dwelling-house and other than a temporary structure)	Not applicable.

<p>c. A list of the Category 1 fire safety provisions that currently apply to the existing building.</p> <p>d. A list of the Category 1 fire safety provisions that are to apply to the building following its change of use</p>	
<p>Concurrence</p> <p>e. A list of any authorities from which concurrence must be obtained before the development may lawfully be carried out or from which concurrence would have been required but for section 4.13(2A) or 4.41 of the Act</p> <p>f. A statement by the applicant that the relevant matters in the Development referrals guide have been considered</p>	<p>Transport for NSW has indicated they will provide a formal response to the proposal after the lodgement of the development application to address the imminence of the acquisition of the land in the SP2 zone as required by section 24, Schedule 1 of the PLEP 2014.</p>
<p>Development involving mining for coal (within the meaning of section 380AA of the Mining Act 1992)</p> <p>g. Documentary evidence that the applicant holds an authority under the Mining Act 1992 in respect of coal and the land concerned, or has the written consent of the holder of such an authority to make the development application</p>	<p>Not applicable.</p>
<p>Development referred to in State Environmental Planning Policy (Housing) 2021, clause 45(1)</p> <p>h. Evidence or information demonstrating whether the development is likely to result in the loss of low-rental dwellings on the land to which the application relates during the relevant period, within the meaning of State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 3</p>	<p>Not applicable.</p>
<p>Development permitted under State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 or 2</p> <p>i. The name of the registered community housing provider who will be managing the boarding house</p>	<p>Not applicable.</p>
<p>Development for a boarding house or co-living house</p> <p>j. A plan of management</p>	<p>Not applicable.</p>
<p>Entertainment venues, function centres, pubs, registered clubs or restaurants</p> <p>k. A statement that specifies the maximum number of persons proposed to occupy, at any</p>	<p>Not applicable.</p>

one time, that part of the building to which the use applies	
Erection of a building l. An A4 plan of the building that indicates its height and external configuration, as erected, in relation to its site	The location of the building is shown on the architectural plans prepared by Gartner Trovato Architects
Integrated development m. A list of any approvals of the kind referred to in section 4.46(1) of the Act that must be obtained before the development may lawfully be carried out n. A statement by the applicant that the relevant matters in the Development referrals guide have been considered	The development is not an integrated development.

4.2.2 Requirements for a Statement of Environmental Effects

The following table identifies the relevant section of the Statement of Environmental Effects where the required consideration has been addressed.

Requirement	Section of Statement
A Statement of Environmental Effects must document:	
a. the environmental impacts of the development	The environmental impacts of the development are described in sections 4 and 5 of this Statement.
b. how the environmental impacts of the development have been identified	The environmental impacts of the development are identified in sections 4 and 5 of this Statement.
c. the steps to be taken to protect the environment or to lessen the expected harm to the environment	The measures taken to protect the environment and lessen the expected harm to the environment are addressed in sections 4 and 5 of the Statement.
d. any matters required to be indicated by any guidelines issued by the Planning Secretary	Section 4.2.1 of this Statement demonstrates compliance with the guidelines issued by the Planning Secretary.
e. drawings of the proposed development in the context of surrounding development, including the streetscape	A series of perspective drawings has been prepared by Gartner Trovato Architects that show the proposed development in the context of the surrounding development.
f. development compliance with building heights, building height planes, setbacks and building envelope controls (if applicable) marked	Compliance with relevant built form controls are included on the architectural plans.

Requirement	Section of Statement
on plans, sections and elevations	
g. drawings of the proposed landscape area, including species selected and materials to be used, presented in the context of the proposed building or buildings, and the surrounding development and its context	The architectural plans include details of the landscape setting of the proposal.
h. if the proposed development is within an area in which the built form is changing, statements of the existing and likely future contexts	A description of the site and surrounds is included in section 2 of the Statement.
i. photomontages of the proposed development in the context of surrounding development	Perspective drawings have been prepared by Gartner Trovato Architects that show the development in the context of the surrounding development.
j. a sample board of the proposed materials and colours of the facade	The architectural plans include details of the proposed materials and colours of each building.
k. detailed sections of proposed facades	The architectural plans include details of the facades and proposed materials and colours.
l. if appropriate, a model that includes the context.	A model is not required for this development.

4.2.3 Existing Use Rights

Part 7 of the EP&A Regulation relates to existing uses. Clause 163(1) provides that:

An existing use may, subject to this Division—

- (a) be enlarged, expanded or intensified, or
- (b) be altered or extended, or
- (c) be rebuilt, or
- (d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or ...

In accordance with clause 164 development consent is required for any enlargement, expansion and intensification of an existing use and subclause (2) provides that the enlargement, expansion or intensification -

- (a) must be for the existing use and for no other use, and
- (b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.

The proposed development seeks consent for the enlargement, expansion and intensification of the existing use of the site as a dwelling house in accordance with clause 163. No other use is proposed.

The starting point for the consideration of the way in which the term “land” is interpreted in a planning sense is generally the High Court decision in *The Council of the City of Parramatta v Brickworks Limited* (1972) 128 CLR 1. That case dealt with the construction of the term “land” as it applied to the use of areas across multiple allotments for the purpose of a quarry and brickworks. In that case, at [19] the Court confirmed that the correct approach to the interpretation of “land” for a town planning perspective is not governed by the boundaries of a certificate of title. In his reasoning, Gibbs J concluded:

“an existing use of land... refers to land which from a practical point of view should be regarded as one piece of land, and not to land contained within the boundaries of one subdivision, or described in one certificate of title... There is however nothing in the provisions of the Planning Scheme Ordinance that suggests a concern with conveyancing details rather than with actual use.”

More recently, in the case of *Saffioti v Kiama Municipal Council* [2017] NSWLEC 65, the Court considered whether the lawful use of a property for the purposes of a dwelling should be limited to the mere portion of the lot where that dwelling was situated, or if it extended to the whole lot. Molesworth AJ considered at [82] that:

“In a domestic dwelling context, the planning unit is most commonly the entire lot upon which the dwelling sits. It would be nonsensical to contemplate just the curtilage of a dwelling building as being the planning unit and the surrounding land within the relevant lot as being somehow disconnected from the planning unit.”

The development is to be carried out on the land on which the existing use was carried out immediately before the relevant date. BA0456/97 related to both 18 and 20 The Serpentine so the land on which the existing use was carried out includes the three existing allotments which form the site area for the existing dwelling at 18 and 20 the Serpentine.

4.3 Environmental Planning Instruments

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development and aims to encourage sustainable residential development.

A BASIX certificate prepared by Gartner Trovato Architects accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

4.3.2 State Environmental Planning Policy (Resilience and Hazards) 2021

Coastal Management

Chapter 2 of State Environmental Planning Policy (Resilience and Hazards) 2021 applies to land within the coastal zone and aims to promote and integrated and co-ordinated approach to land use planning in the coastal zone.

Chapter 2 of the SEPP applies to all land within the coastal zone. The site is located within the coastal zone.

Pursuant to clause 2.2(2) words and expressions use in this Policy has the same meanings as they have in the Coastal Management Act 2016, unless otherwise defined in this Policy.

Section 5 of the Coastal Management Act 2016 provides that the coastal zone means the area of land comprised of the following coastal management areas—

- (a) the coastal wetlands and littoral rainforests area,
- (b) the coastal vulnerability area,
- (c) the coastal environment area,
- (d) the coastal use area.

The site is within the coastal use area as identified on the relevant map (refer to Figure 10).

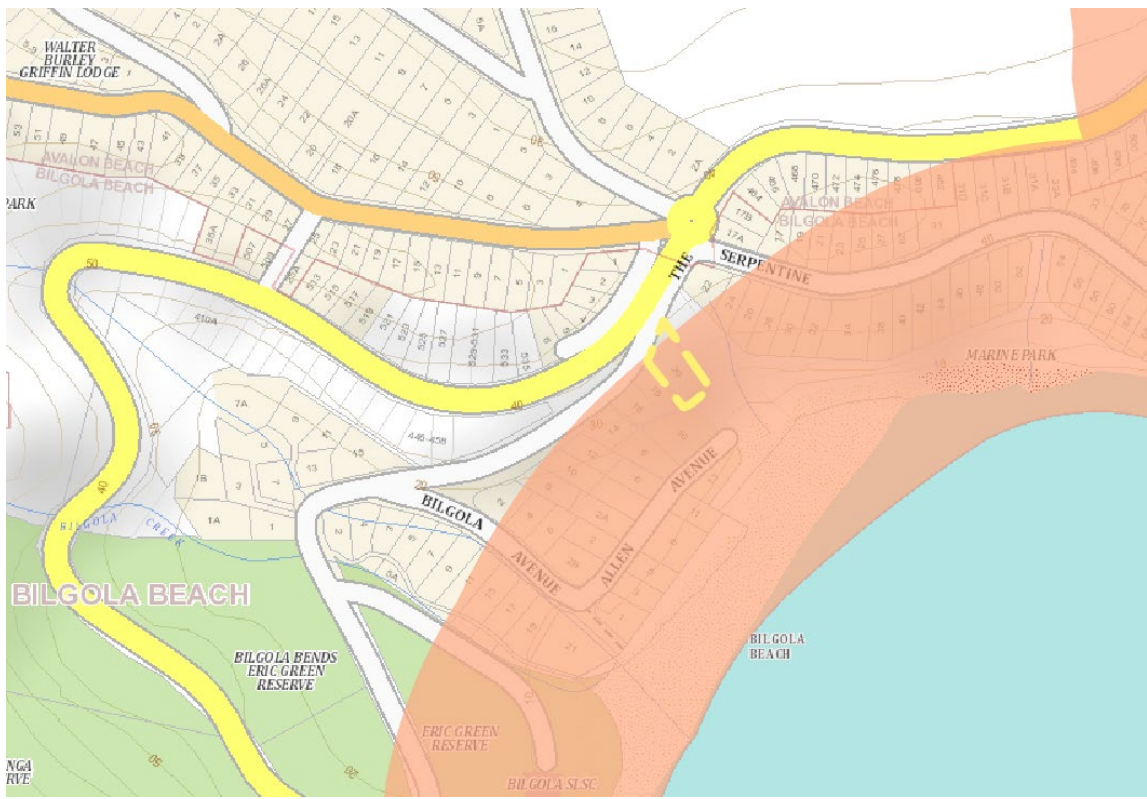


Figure 10:

SEPP (Resilience and Hazards) 2021 Coastal Use Area Map

Coastal Use Area

Clause 2.11 sets out the controls for development on land within the coastal use area. The proposal's compliance with the provisions of clause 2.11 are addressed in the table below.

Control	Comment
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority— (a) has considered whether the proposed development is likely to cause an adverse impact on the following—	
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The proposed development will not impact on public access to the beach.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposed development will have minimal impact on the public domain. The development will not result in any shadowing of the public domain as shown by the shadow diagrams prepared by Gartner Trovato Architects nor will the proposal result in wind funnelling to the public domain. The existing, dense vegetation in the front setback obscures coastal and ocean views from the public domain to the south-east. As such the proposed development will not result in the loss of any views from public places.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The development complies with the maximum height control, an open carport structure is proposed above the car parking platform to minimise the visual bulk of the structure and the proposed colours and materials blend with the natural environment. For these reasons the development will not impact on the visual amenity and scenic qualities of the coast.
(iv) Aboriginal cultural heritage, practices and places,	The site is highly modified and therefore there are unlikely to be any items of Aboriginal heritage on the site. A condition can be imposed on the consent to ensure that if any items are uncovered during excavation works they are appropriately managed.
(v) cultural and built environment heritage, and	The proposed works are not in the vicinity of any heritage items or heritage conservation areas.

Remediation

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 applies to the whole of the State and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out of any development on that land and if the land is contaminated, it is satisfied that the land is suitable in its current state or will be suitable after remediation for the purpose for which the development is proposed to be carried out.

The site does not have any history of contaminating uses and there is evidence that the site has been used for residential purposes since the 1940s. Accordingly, the consent authority can be satisfied that the site is suitable in its current state for the proposed development.

4.3.3 Pittwater Local Environmental Plan 2014

Zoning and Permissibility

A portion of the site adjoining The Serpentine is zoned SP2 Infrastructure whilst the remainder of the site is zoned C4 Environmental Living pursuant to the Pittwater Local Environmental Plan 2014 (PLEP 2014). An extract of the Land Zoning Map is included as Figure 11.



Figure 11:

Extract from the PLEP 2014 Land Zoning Map

The proposed works are located within the SP2 Infrastructure zone as clearly shown by Drawing A.01 prepared by Gartner Trovato Architects. The Land Use Table for the SP2 zone is as follows:

1 Objectives of zone

- To provide for infrastructure and related uses.

- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Nil

3 Permitted with consent

Aquaculture; Building identification signs; Business identification signs; Environmental protection works; Roads; The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

4 Prohibited

Any development not specified in item 2 or 3

The proposed works are not listed in the Land Use Table as permitted in the SP2 zone.

Notwithstanding this, clause 2.5 of the PLEP 2014 provides the following:

1) Development on particular land that is described or referred to in Schedule 1 may be carried out—

(a) with development consent, or

(b) if the Schedule so provides—without development consent,

in accordance with the conditions (if any) specified in that Schedule in relation to that development.

(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

Clause 24 of Schedule 1 relates to the use of certain land in Zone SP2 Infrastructure intended to be acquired for public purposes. Clause 24 applies to in Zone SP2 Infrastructure and marked “Classified road” and identified as “Area 24” on the Additional Permitted Uses Map as shown in Figure 12. The land is Zoned SP2 and identified as Area 24 on the Additional Permitted Uses Map and therefore clause applies.

Clause 24(2) states:

(2) Development for the purposes of enabling access to a dwelling house is permitted with development consent, but only if the consent authority has considered the following—

(a) the effect of the proposed development on the costs of acquisition of the land,

(b) the imminence of the acquisition,

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

The car parking platform provides an additional vehicular and pedestrian access point to the existing dwelling house and therefore may be permitted with consent. The car parking platform provides the only access point to Lot 5 DP 13497.

Transport for NSW have advised they will provide a formal response to the proposal once the development application has been lodged.

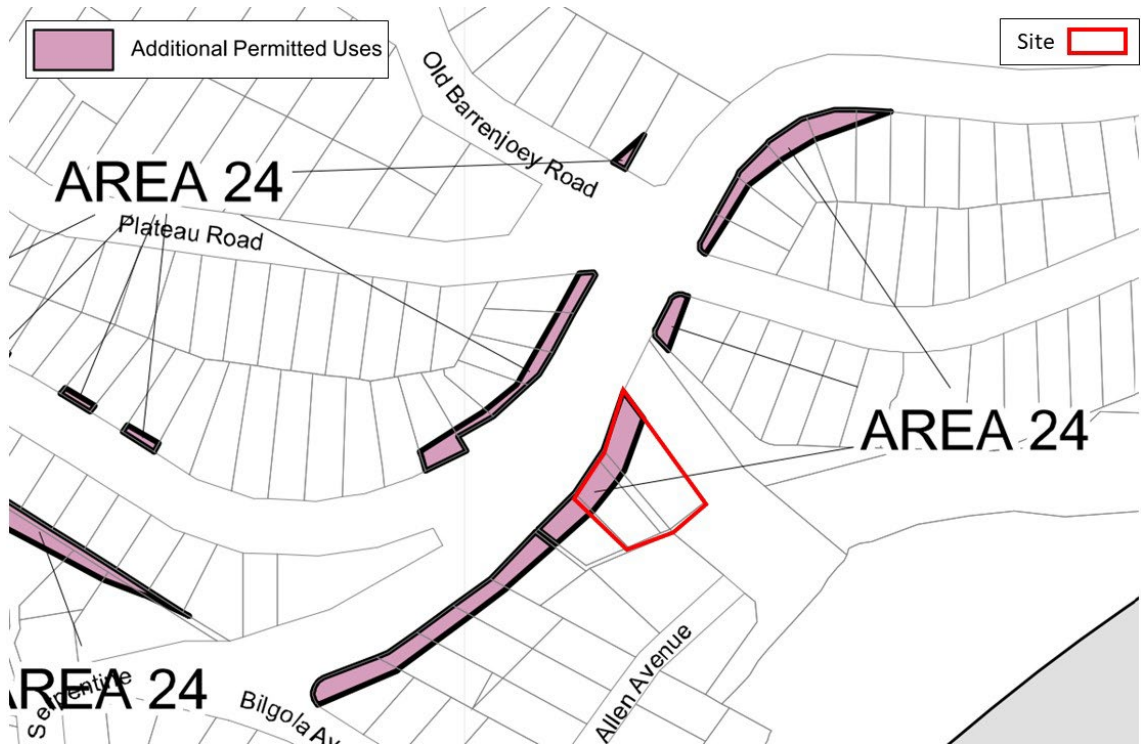


Figure 22:

Extract from the PLEP 2014 Additional Permitted Uses Map

Clause 2.3(2) of the PLEP 2014 provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the SP2 zone are:

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

The land has been available for road widening for decades without any action being taken by the acquisition authority. The owner of the land has not been notified that acquisition of any part of the site is imminent. The land is steeply sloping and unsuitable for road widening. As such the development is consistent with the zoning of the land.

Height

In accordance with clause 4.3 'Height of Buildings' of the PLEP 2014 the height of a building on any land is not to exceed the maximum height shown for the land on the 'Height of Buildings Map'. The maximum height shown for the site is 8 metres as shown in Figure 13.

The proposed structure fully complies with the 8-metre height limit as shown on the elevations and sections prepared by Gartner Trovato Architects.

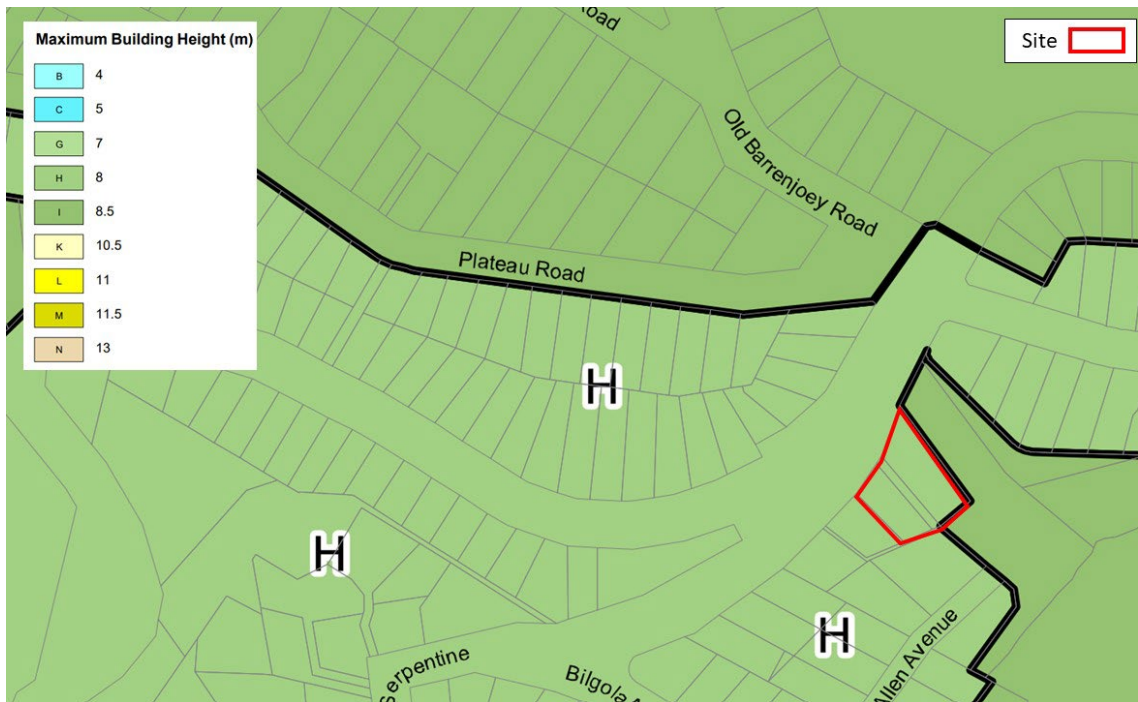


Figure 13:

Extract from the PLEP 2014 Height of Buildings Map

Relevant Acquisition Authority

Clause 5.1 of the PLEP 2014 identifies the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions).

Transport for NSW is the relevant authority to acquire shown on the Land Reservation Acquisition Map as SP2 Infrastructure and marked "Classified Road".

The land in the SP2 zone has been available for road widening for decades without any action being taken by the acquisition authority. The owner of the land has not been notified that acquisition of any part of the site is proposed in the short to medium term. The land is steeply sloping and unsuitable for road widening.

Transport for NSW have advised they will provide a formal response to the proposal once the development application has been lodged.

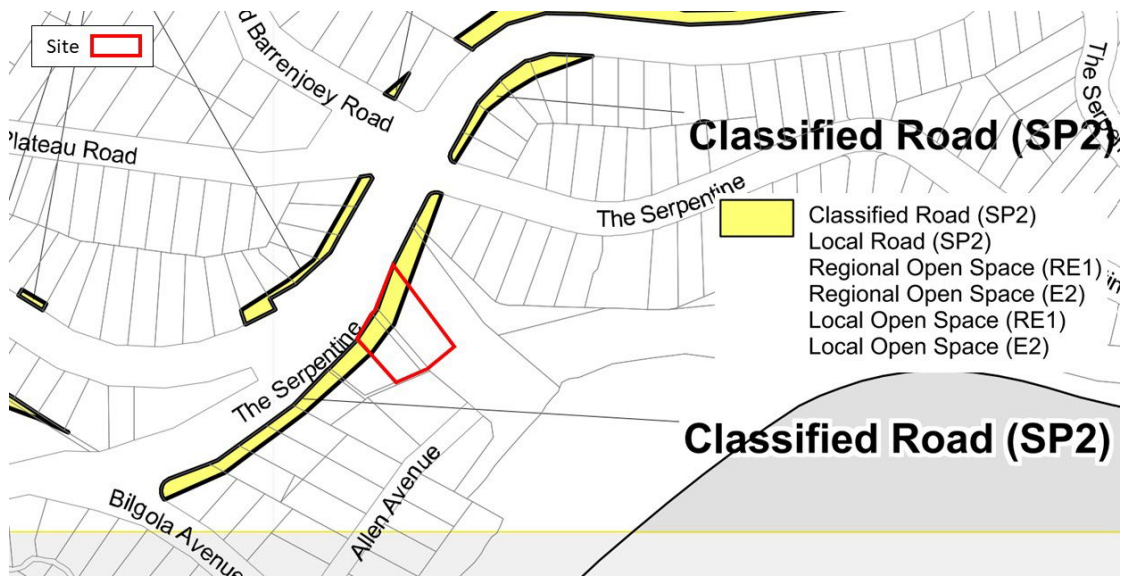


Figure 14:

Extract from the Land Reservation Acquisition Map

Development on land intended to be acquired for public purposes

The objective of clause 5.1A of the PLEP 2014 is to limit development on certain land intended to be acquired for a public purpose.

The clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the table to the clause and that has not been acquired by the relevant authority of the State specified in clause 5.1.

As noted in the section immediately above and shown in Figure 14, the site of the proposed development is on Land shown on the Land Reservation Acquisition Map and Transport for NSW has not acquired the land.

Pursuant to clause 5.1A(3) development consent must not be granted to any development on land to which the clause applies, other than development for a purpose specified opposite that land in Column 2 of that table. The purpose specified in column 2 for land zoned SP2 Infrastructure and marked "Classified Road" is Roads as shown in Figure 15.

Column 1	Column 2
Land	Development
Zone SP2 Infrastructure and marked "Classified road"	Roads
Zone SP2 Infrastructure and marked "Local road"	Roads
Zone RE1 Public Recreation and marked "Local open space"	Recreation areas
Zone RE1 Public Recreation and marked "Regional open space"	Recreation areas
Zone E2 Environmental Conservation and marked "Regional open space"	Recreation areas
Zone E2 Environmental Conservation and marked "Local open space"	Recreation areas

Figure 15:

Extract from Clause 5.1(3) of the PLEP 2014

Despite this clause the use of the land for the purpose of enabling access to a dwelling house is permitted with development consent in accordance with clause 2.5 of the PLEP 2014. Existing use

rights apply to the land as detailed in this Statement and permit the proposed development on land within the SP2 zone that is reserved for acquisition.

Acid Sulfate Soils

The site is identified as Class 5 land on the Acid Sulfate Soils Map (refer to Figure 16) below. Pursuant to clause 7.1(2) development consent is required for the carrying out of works within 500 metres of adjacent class 1, 2, 3 or 4 land and by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land.

Given the proximity of the site from adjacent Class 1, 2, 3 or 4 land, the topography of the site and surrounds and the minimal extent of excavation proposed, the development is unlikely to lower the water table below 1 metre AHD on the adjacent Class 1, 2, 3 or 4 land. As such an acid sulfate soils management plan is not required.

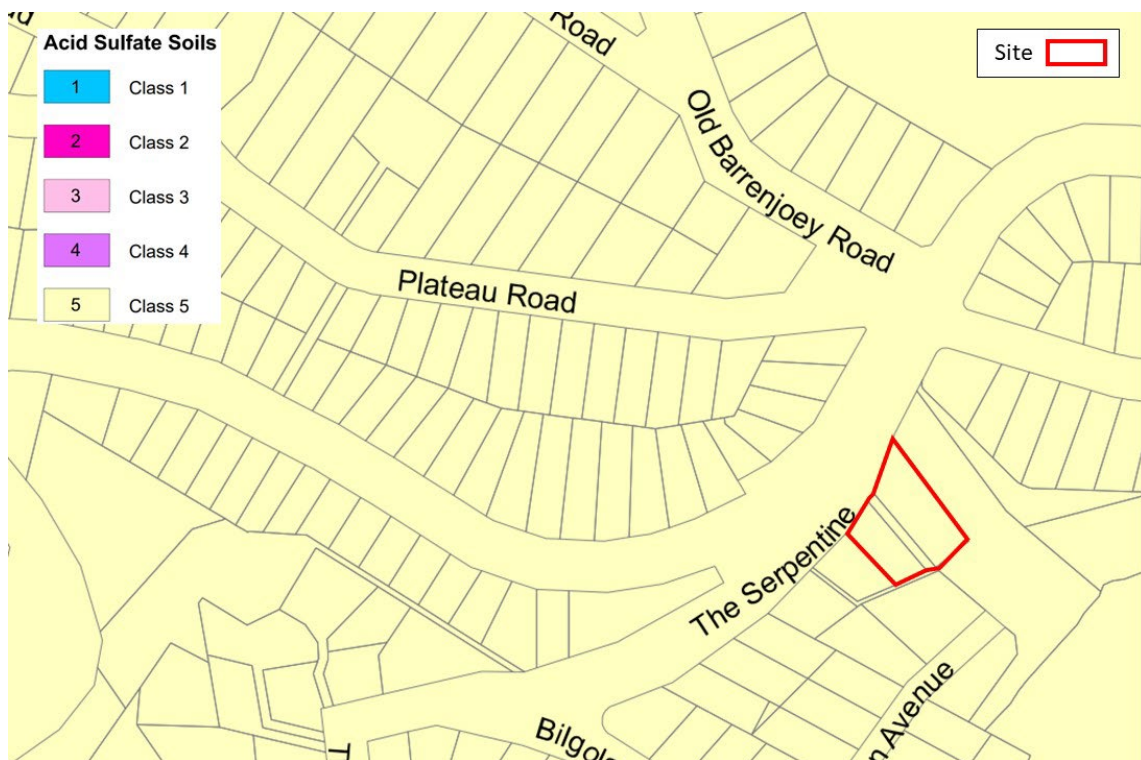


Figure 16:

Extract from the PLEP 2014 Acid Sulfate Soils Map

Earthworks

The development involves excavation works within the front setback of the existing dwelling. Given the front setback of the existing dwelling has been terraced to create a usable and accessible garden, the extent of excavation required for the proposed development is not excessive or unreasonable.

Clause 7.2 of PLEP 2014 requires the consent authority to consider a range of matters in deciding whether to grant consent for ancillary earthworks. The relevant considerations have or can be addressed as follows:

- The Geotechnical Report and Stormwater Management Plan that accompany the application demonstrate that the proposed development will not adversely affect drainage patterns or soil stability in the locality or soil stability.
- A soil and erosion control plan will be prepared and implemented to mitigate potential impacts on the environment as a result of run off from the construction site.
- Conditions of consent can be imposed to ensure that soil that is excavated is appropriately disposed of.
- Given the site has been highly disturbed, it is highly unlikely that any relics will be disturbed. A condition of consent can be imposed to ensure that if any relics are discovered during excavation works they will be appropriately managed and reported.
- The site is not in the vicinity of an heritage item or heritage conservation area and as such the development will not result in any impacts on local heritage items or conservation areas.

Biodiversity

Clause 7.6 of the PLEP 2014 applies to land identified as “Biodiversity” on the Biodiversity Map. The site is identified as Biodiversity of the Biodiversity Map and therefore the clause applies.



Figure 17:

Extract from the PLEP Biodiversity Map

Clause 7.6 sets out a number of relevant considerations for the consent authority. In response to these considerations the following observations are made:

- The development has been designed to minimise the impact on trees within the adjoining public reserve.
- The Arboricultural Impact Assessment that accompanies the application indicates that no species of assessed tree is subject to threatened conservation status under Australian or State Government legislation.
- The development involves the removal of seven (7) prescribed or Council managed street trees. The impact on these trees cannot be reasonably avoided due to the topography of the site, placement of the existing dwelling and garage on the site and the need to provide adequate sightlines to the driveway entry.

Geotechnical Hazards

Clause 7.7 of the PLEP 2014 applies to land identified as "Geotechnical Hazard H1" and "Geotechnical Hazard H2" on the Geotechnical Hazard Map. The site is within Geotechnical Hazard H1 area as shown in Figure 17 below.

Pursuant to subclause (3) before determining a development application for development on land to which the clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account all geotechnical risks:

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

A Geotechnical Report prepared by Crozier Geotechnical Consultants and a Stormwater Management Plan prepared by Barrenjoey Consulting Engineers accompany the application. The Geotechnical Report and Stormwater Plan address the relevant considerations identified in subclause (3).

As such the consent authority can be satisfied that the development will appropriately manage waste water, stormwater and drainage from the proposed development. The consent authority can also be satisfied that the development will be designed, sited and managed to minimise the geotechnical risk associated with the proposed development.

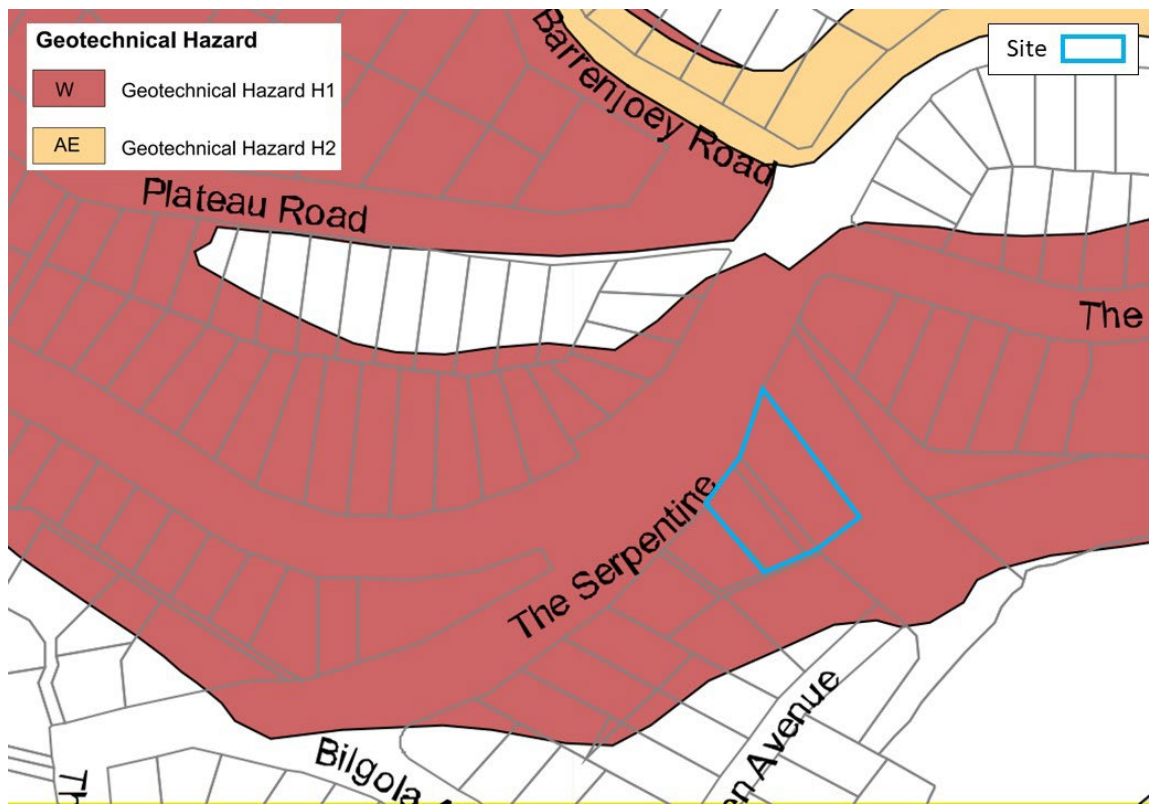


Figure 18:

Extract from the PLEP 2014 Geotechnical Hazard Map

Essential Services

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

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

The required services are currently available to the existing dwelling on the site.

4.4 Pittwater 21 Development Control Plan

Pittwater 21 Development Control Plan (P21DCP) contains development controls for the design and construction of buildings and the development of land in Pittwater. This section of the Statement of Environmental Effects addresses the proposal's consistency with the relevant provisions of the DCP.

4.4.1 Locality Statement

The subject site is located within the Bilgola locality. The Desired Character of the locality is described in Part A4.3 of the DCP.

Desired Future Character

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

The Bilgola Beach Area:

Is a visual catchment that is environmentally significant and extremely susceptible to degradation. Its unique local and regional significance requires protection and preservation, and further investigation for listing as an environmental protection and/or conservation area. Strict development controls will apply to this area (including a reduced building height limit to 8m) to ensure that its unique qualities are preserved through development that is sensitive to the area's characteristics.

A Visual Protection Area (as identified in Bilgola Locality Map 3) contains particular controls to minimise the impact of development that is visible from public places. The beach, valley and headlands represent a quiet uncrowded environment with no formal commercial activity. Its unique natural, unspoilt, non-commercial character makes it attractive to local residents and visitors alike and reflects the relaxed beach lifestyle. The local topography and natural features, notably the beachfront, headlands and stands of cabbage tree palms in the valley demand different sets of constraints on building design.

The proposed building has been designed to minimise the visual dominance of the structure from the adjoining public reserve and public domain through providing a generous setback to the north-east boundary, providing an open carport rather than an enclosed garage to reduce the visual bulk of the structure and contribute to a sense of openness, minimising the impact of the development on significant trees and vegetation and providing selecting colours and materials with dark and earthy tones so that the structure is recessive to the surrounding vegetation.

The car parking platform is located below the road level and the studio and complies with the 8-metre height limit so that the structure sits well below the tree canopy level.

4.4.2 General Controls

Landslip

The provisions of B3.1 of P21DCP applies to land identified on the PLEP Geotechnical Map. The site is identified as Geotechnical Hazard H1 on the PLEP Geotechnical Map and therefore the provisions of B3.1 apply.

A Geotechnical Report prepared by Crozier Geotechnical Consultants accompanies the application which demonstrates that the development is capable of complying the requirements of the Geotechnical Risk Management Policy for Pitter and will be designed and constructed to remove risk to an acceptable level for the life of the development.

Bushfire Hazard

The site is identified as a vegetation buffer on the Northern Beaches Bushfire Prone Land Map. A Bushfire Report prepared by Bushfire Planning Services accompanies the application to demonstrate that the development complies with the requirements of Planning for Bushfire Protection and the relevant Australian Standards.

Acid Sulphate Soils

The site is identified as Class 5 land on the Acid Sulfate Soils Map. Minimal excavation is required. The proposed works are unlikely to lower the water table on adjacent Class 1, 2, 3 or 4 land by 1 metre. Accordingly, an Acid Sulfate Soils Management Plan is not required.

Contaminated Land and Potentially Contaminated Land

The site has historically been used for residential purposes. There is no record of contaminating uses being undertaken on the site. Accordingly, no further investigations are warranted, and Council can be satisfied that the site is suitable in its current state, or can be made suitable, for the proposed use.

Land adjoining Bushland

The site adjoins a public reserve to the east. The carport has been sited to ensure the development does not adversely impact on vegetation with the reserve. The setback and colours and materials of the structure also assist in minimising the visual impact of the structure when viewed from the reserve.

Preservation of Trees and Bushland Vegetation

An Arboricultural Impact Assessment (AIA) prepared by Treeism Arboricultural Services accompanies the application. The AIA identifies and assesses trees in the vicinity of the proposed development and identifies the potential impacts of the proposal on the retention or long-term viability of each tree. Seven trees require removal to accommodate the proposal and the report sets our recommendations to minimise the impacts on seven trees which are nominated for retention. The AIA notes that no species of assessed tree is subject to threatened species conservation status under Australian and/or State legislation.

Water Management

A Stormwater Management Plan prepared by Barrenjoey Consulting Engineers accompanies the application as required by clause B5.15 of P21 DCP. The Plan addresses the relevant requirements of B5.15.

Access and Parking

Section B6.1 provides that where the frontage of an allotment to a local public road is less than 30 metres, only one access driveway is permitted and that where the frontage of an allotment to a local public road is 30 metre or more a second driveway will be considered on merit.

The dwelling at 18 and 20 The Serpentine extends across three lots being Lots 4A and 4b in DP361236 and Lot 5 in DP 13497. The existing garage is located on Lot 4B which is on the western side of the site's frontage. The proposed driveway is located on Lot 5 which is on the eastern side of the site's frontage. As the two driveways are located on separate lots, the provision of two crossings for the one dwelling is consistent with the DCP provisions. In addition the site has a frontage of 50.29 which is significantly greater than the 30 metre frontage requirement where Council will consider a second driveway crossing on merit.

The Parking Statement prepared by PDC Consultants addresses the proposal's consistency with the requirements of Section B6 of P21DCP.

A mechanical vehicle turntable is proposed in front of the carport so that all vehicles can enter and exit the site in a forward direction as required by B6.5 of P21DCP.

The location of the driveway has been selected based on assessment of the vegetation on the site and the adjoining land and the sightlines available to the driveway entry along The Serpentine. The Parking and Design Statement prepared by PDC includes a sight distance assessment which confirms that the proposal achieves the 35-metre sight distance required by AS2890.1.

Part B6.3 sets out the off-street car parking requirements for dwelling houses. The DCP describes the desired outcome of the car parking requirements as 'an adequate number of parking and services spaces that meets the demands generated by the development'. The DCP requires a minimum of 2 parking spaces per dwelling. Two car parking spaces are currently provided for the dwelling. This is inadequate for the existing 5-bedroom dwelling on the site, particularly given there is no opportunity for visitors to park on the site, without parking on the driveway and reserving back onto The Serpentine which is unsafe given the lack of visibility and gradient of the driveway. Further there is no on-street parking for visitors or residents of the driveway and Council Rangers regularly patrol The Serpentine and issue fines for parking on the verge.

Site Works Management

Limited excavation is proposed as the front setback has previously been terraced to create a usable and accessible area. A Geotechnical Report accompanies the application which addresses the risk level associated with the proposed excavation in this area.

An Erosion and Sediment Control Plan can be provided prior to the issue of the Construction Certificate which details the measures that will be implemented on the site to prevent the migration of sediment off the site and into any waterway, drainage systems and public reserves.

A Recycling and Waste Management Plan can be provided prior to the issue of the Construction Certificate which details how construction waste will be managed.

Site fencing will be provided during construction and demolition works to ensure public safety.

4.4.3 Development Type Controls

The following table summarises the proposed development's compliance with the general controls for residential development found in Section C1 of P21DCP.

Control	Comment
C1.1 Landscaping	Where possible existing mature trees have been retained, including the trees in the road reserve.
C1.2 Safety and Security	The existing brushwood fence along the front property boundary is to be retained with gates added for the new pedestrian and vehicular entries. The fence will delineate the site boundary and direct visitors to the entrance to the dwelling.
C1.3 View Sharing	<p>Pursuant to clause C1.3 all new development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.</p> <p>The view towards the ocean is currently heavily screened by the existing landscaping in the road reserve and on the subject site. As such, the only clear view of the ocean and headland is available from the existing driveway on the site.</p> <p>The proposed parking structure and carport will not therefore impact on any existing view. The open style car port that is proposed will ensure that the structure will not completely obstruct any view that may exist after the construction of the new driveway.</p>
C1.4 Solar Access	<p>In accordance with clause C1.4 the main private open space of each dwelling and the main private open space of any adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on 21st June. Windows to the principal living areas of the proposal and windows to the principal living area of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on 21st June to at least 50% of the glazed area.</p> <p>The shadow diagrams prepared by Gartner Trovato Architect (Drawing A.06) demonstrate that the proposed structure will not impact on the solar access available to the adjoining dwelling at 20 The Serpentine.</p> <p>The shadow diagrams demonstrate that significant parts of the private open space of 18 and 20 The Serpentine will receive solar access between 9am and 3pm on 21 June.</p>
C1.5 Visual Privacy	The proposed structure is located in the northern corner of the allotment, away from the dwellings on the adjoining residential lots. As such, the proposed structure will not result in any adverse visual privacy impacts on the surrounding residential properties.
C1.6 Acoustic Privacy	The proposed development has been designed to comply with clause C1.6 of P21DCP. The proposed structure is located away from the dwellings on nearby residential allotments and will not therefore result in any unreasonable acoustic impacts on the surrounding properties.
C1.7 Private Open	A complying area of private open space is provided for the existing dwelling.

Control	Comment
Space	
C1.9 Adaptable Housing and Accessibility	Clause C1.9 provides that development shall include the design and construction of works in the public domain to ensure accessibility for the full frontage of the site to any public road and to ensure access to the site from the public domain. The development includes the construction of a vehicular crossing to provide vehicular access to the proposed structure. There are currently no other public domain works along The Serpentine and as such the application does not include any additional public domain works.
C1.10 Building Facades	The DCP requires building facades to not contain any stormwater, sewer, gas, electrical or communication service pipe or conduit that is visible from a public place. The downpipes from the carport roof will be integrated into the design of the structure.
C1.12 Waste and Recycling Facilities	No changes are proposed to the existing bin storage area.
C1.13 Pollution Control	The development will comply in all respects with the Protection of the Environment Operations Act 1997.
C1.15 Storage Facilities	The structure will provide additional storage areas for the dwelling.
C1.18 Car/Vehicle/Boat Wash Bays	Not applicable.
C1.20 Undergrounding of Utility Services	The development includes the replacement of the overhead electricity supply to the site with an underground supply as shown on Drawing A.02.
C1.21 Seniors Housing	Not applicable.
C1.23 Eaves	The carport structure includes an eave.
C1.24 Public Road Reserve – Landscaping and Infrastructure	There is no kerb and gutter or footpath along The Serpentine for the length of the frontage of the site or along The Serpentine in the vicinity of the site and no proposal to provide such infrastructure.
C1.25 Plant, Equipment Boxes and Lift Over Run	No air conditioning units are proposed on the roof of the building.

4.4.4 Locality Specific Controls

The subject site is located in the Bilgola Locality. The development's performance against the relevant locality specific controls is discussed below.

Control	Comment
D3.1 Character as View from a Public Place	<p>In accordance with clause D3.1, the bulk and scale of buildings must be minimised and landscaping is to be integrated with the building design to screen the visual impact of the built form. Buildings are to give the appearance of being secondary to landscaping and vegetation.</p> <p>The proposed building has been designed to minimise the visual dominance of the structure from the adjoining public reserve and public domain through providing a generous setback to the north-east boundary, providing an open carport rather than an enclosed garage to reduce the visual bulk of the structure and contribute to a sense of openness, minimising the impact of the development on significant trees and vegetation and providing selecting colours and materials with dark and earthy tones so that the structure is recessive to the surrounding vegetation. The car parking platform is located below the road level and the studio and complies with the 8-metre height limit so that the structure sits well below the tree canopy level.</p>
D3.2 Scenic Protection General	<p>The complying height of the development combined with the retention of as many significant trees as possible will ensure that the proposal will not result in any adverse visual impact on the natural environment.</p>
D3.3 Building Colours and Materials	<p>The application is accompanied by a schedule of finishes. The development incorporates a variety of high-quality external colours, materials and finishes which are dark and earthy tones that are recessive and will harmonise with the natural environment.</p>
D3.6 Front Building Line	<p>The land adjoining the front boundary and adjoining The Serpentine is zoned SP2 Infrastructure.</p> <p>Pursuant to clause D3.6 of the PDCP the minimum front building line is to be based on a merit assessment. The DCP provides that where car parking is to be provided on steeply sloping sites, reduced or nil setback for car parking structure and spaces may be considered, however all other structures on the site must satisfy or exceed the minimum building line applicable.</p> <p>The parking and studio structure is generally setback 1 metre from the front boundary.</p> <p>The front setback is considered acceptable given:</p> <ul style="list-style-type: none"> • The steeply sloping topography of the site and the location of the existing dwelling prevent a greater setback being provided to the car parking structure. • The proposed structure will not result in any adverse impacts on views from the public domain given the dense landscaping on the site and within the public reserve screens views to the ocean from the public domain. • The high-quality design of the structure, including the open car port structure and the use of dark and earthy colours and materials ensures that the structure will provide a positive contribution to the streetscape. • The structure complies with the height limit and will sit below the

Control	Comment
	<p>canopy height so that the landscaped character of the locality is maintained.</p> <ul style="list-style-type: none"> The car parking structure has been located to minimise the impact on the trees and vegetation within the adjoining public reserve.
D3.7 Side and Rear Building Line	Pursuant to clause D3.7 a 2.5 metre setback applies to one side and a 1 metre setback applies to the other for land zoned C4 Environmental Living. No setback is specified for land zoned SP2. The proposed structure is entirely located within the SP2 zone. A minimum 3.3 metre setback is proposed which exceeds the setback requirements for the C4 zone.
D3.9 Building Envelope	In accordance with D3.96 development must be sited within an envelope determined by projecting planes at 45 degrees from a height of 3.5 metres above natural ground level at the side boundaries to the maximum height. The proposed development complies with the building envelope requirements.
D3.10 Landscaped Area	Not applicable.
D3.11 Landscaped Area – Environmentally Sensitive Area	<p>Control D3.11 applies to land in the Bilgola Locality within Areas 1 and 2 of the Landscaped Area Map. The site is within Area 1 on the Landscaped Area Map. Accordingly, any alterations or additions to an existing dwelling shall provide a minimum 60% of the site area as landscaped area. On lots where there is a split zoning and part of the lot is zoned RE1 Public Recreation, E2 Environmental Conservation or SP2 Infrastructure the calculation for total landscaped area will be based only on that area not zoned RE1 Public Recreation, E2 Environmental Conservation or SP2 Infrastructure. The proposed development does not alter the landscaped area for the portion of the site that is not zoned SP2.</p> <p>Whilst the SP2 area of the site is not technically required to be included in the landscaped area calculation, the existing development provided a landscaped area of 1,045.94 square metres (52.9%) and a total proposed landscaped area of 992.02 square metres is proposed (50.17%).</p> <p>The proposed landscaped area is consistent with the objectives of the control in that:</p> <ul style="list-style-type: none"> The development will not result in any unreasonable impacts on the desired future character of the locality. The bulk and scale of the development is acceptable having regard to the complying height of the structure, the open design of the carport, the setback proposed to the side boundary, the retention of trees within the setback and the recessive colour palette for the external colours and finishes. The structure will not result in any adverse shadow impacts on the adjoining properties. The structure has been sited so as to minimise the impact of the development on natural vegetation on the site. The stormwater management plan demonstrates that stormwater runoff

Control	Comment
	<p>can be properly managed.</p> <ul style="list-style-type: none"> The bushland character of the area is maintained by the sensitive design of the proposed structure.
D1.15 Fences – General	The application includes the construction of new gates at the new pedestrian and vehicular entries. The gates will be an open style and will be provided within the existing brush fence.
D1.17 Construction, Retaining walls, terracing and undercroft areas	<p>The floor plans and elevations show the location of the existing retaining walls and new walls.</p> <p>The DCP provides that undercroft areas shall be limited to a maximum height of 3.4 metres and requires adequate landscaping to be provided to screen undercroft areas. The undercroft areas have a height of less than 3.4 metres and will be primarily visible to the occupants of the existing dwelling. The undercroft area will be used as a studio/office space with quality external finishes to minimise the visual impact of this part of the structure.</p>

5.0 SECTION 4.15 CONSIDERATIONS

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the Environmental Planning and Assessment Act 1979. Guidelines to help identify the issues to be considered have been prepared by the Department of Urban Affairs and Planning (now the Department of Planning and Environment) and are included below.

5.1 The provisions of any planning instrument, draft environmental planning instrument, development control plan or regulations

The proposal is permissible pursuant to section 24, Schedule 1 of the PLEP 2014 and based on the existing use rights provisions of the EP&A Act and Regulation. The proposal is generally in conformity with the general and specific development type controls contained within the Pittwater 21 Development Control Plan as detailed in section 4 of this Statement.

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

Context and Setting

What is the relationship to the region and local context in terms of:

the scenic qualities and features of the landscape?

the character and amenity of the locality and streetscape?

the scale, bulk, height, mass, form, character, density and design of development in the locality?

the previous and existing land uses and activities in the locality?

A detailed site analysis and advice from the project Arborist and Traffic Engineer informed the footprint and design of the proposed development. The built form, setbacks and setting of the development are consistent with the character and amenity of the locality. This Statement details the proposal's consistency with the character and amenity of the locality and streetscape.

What are the potential impacts on adjacent properties in terms of:

relationship and compatibility of adjacent land uses?

sunlight access (overshadowing)?

visual and acoustic privacy?

views and vistas?

edge conditions such as boundary treatments and fencing?

The proposal will not result in view loss, unreasonable solar access impacts or unreasonable privacy impacts as detailed in this Statement.

Access, transport and traffic

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

travel demand?

dependency on motor vehicles?

traffic generation and the capacity of the local and arterial road network?

public transport availability and use (including freight rail where relevant)?

conflicts within and between transport modes?

traffic management schemes?

vehicular parking spaces?

The proposed development provides appropriately for car parking and will not result in any adverse impact on the capacity of the local road network as detailed in the Parking Design Statement prepared by PDC.

Public domain

The proposed development will not result in any unreasonable impacts on the public domain. Two trees (a Tuckeroo and a Norfolk Island Hibiscus) within the public domain are required to be removed for the proposed development. Whilst the location of the driveway does require the removal of the Tuckeroo tree the proposed driveway location ensures the retention of several trees in the road reserve and to the north-east of the site. The Norfolk Island Hibiscus tree is exempt under Council's DCP on private properties. Council has previously removed this species in public areas as people are often impacted by the irritant fibres within the seed pods of these trees.

Utilities

All required utilities and services are currently provided to the site.

Flora and fauna

An Arboricultural Impact Assessment prepared by Treeism Arboricultural Services accompanies the application which identifies and assesses the impact of the development on the trees in the vicinity of the proposed works.

Waste collection

The proposed development does not alter the existing waste storage and collection arrangements.

Natural hazards

The site is identified as a Vegetation Buffer on the Northern Beaches Bushfire Prone Land Map. A Bushfire Risk Assessment accompanies the application that concludes that subject to the

implementation of the recommendations of the report the development can comply with the requirements of AS3959-2018 and the 'Planning for Bushfire Protection' guidelines.

The site is also within the Geotechnical Hazard H1 area. Subject to compliance with the recommendations of the Geotechnical Report prepared by Crozier Geotechnical Consultants the Geotechnical Report concludes that the site and proposed works are suitable and can meet the acceptable risk management criteria for the design life of the development taken as 100 years.

Economic impact in the locality

The proposed development will provide temporary employment through the construction of the development.

Site design and internal design

Is the development design sensitive to environmental conditions and site attributes including:

size, shape and design of allotments?

the proportion of site covered by buildings?

the position of buildings?

the size (bulk, height, mass), form, appearance and design of buildings?

the amount, location, design, use and management of private and communal open space?

landscaping?

The proposal has been carefully designed to minimise the impact of the development on the natural landform and vegetation as detailed in the Statement and the accompanying AIA.

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

lighting, ventilation and insulation?

building fire risk - prevention and suppression/

building materials and finishes?

a common wall structure and design?

access and facilities for the disabled?

likely compliance with the Building Code of Australia?

The building design provides adequate internal amenity for occupants noting that adequate ventilation and access to daylight is provided to the office/studio space.

Construction

What would be the impacts of construction activities in terms of:

the environmental planning issues listed above?

site safety?

The development will be carried out in accordance with the provisions of the Protection of the Environment Operations Act 1997. Normal site safety measures and procedures will ensure that no site safety or environmental impacts will arise during construction.

5.3 The suitability of the site for the development

Does the proposal fit in the locality?

- are the constraints posed by adjacent developments prohibitive?
- would development lead to unmanageable transport demands and are there adequate transport facilities in the area?
- are utilities and services available to the site adequate for the development?

The adjacent development does not impose any insurmountable development constraints. There will be no excessive levels of transport demand created.

Are the site attributes conducive to development?

The site is within the Geotechnical Hazard H1 area. Subject to compliance with the recommendations of the Geotechnical Report prepared by Crozier Geotechnical Consultants the Geotechnical Report concludes that the site and proposed works are suitable and can meet the acceptable risk management criteria for the design life of the development taken as 100 years.

5.4 Any submissions received in accordance with this Act or the regulations

It is envisaged that any submissions made in relation to the proposed development will be appropriately assessed by Council.

5.5 The public interest

The development is consistent with the applicable planning provisions that apply to the site and does not result in any unreasonable impacts on the streetscape, the amenity of the public domain or the amenity of the surrounding properties.

The land in the SP2 zone has been available for road widening for decades without any action being taken by the acquisition authority. The owner of the land has not been notified that acquisition of any part of the site is proposed in the short to medium term. The land is steeply sloping and unsuitable for road widening.

For these reasons the approval of the development is considered to be in the public interest.

6.0 CONCLUSION

The relevant matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 have been addressed in this report and the proposed development has been found to be consistent with the objectives of all relevant planning provisions.

The proposed car parking platform in the SP2 zone is permitted as an additional permitted use in accordance with section 24, Schedule 1 of PLEP 2014. The carport and office/studio are prohibited in the SP2 zone however this Statement has demonstrated that the development benefits from existing use rights.

The land in the SP2 zone has been available for road widening for decades without any action being taken by the acquisition authority. The owner of the land has not been notified that acquisition of any part of the site is proposed in the short to medium term. The land is steeply sloping and unsuitable for road widening.

The proposed development has been designed to minimise the impact on the adjoining public reserve and the streetscape. The height of the structure complies with the 8 metre height limit that applies to the surrounding development and ensures the structure will sit below the height of the surrounding tree canopy. The proposed setback of the structure to the north-east boundary ensures that the trees within the adjoining public reserve to the north-east can be retained and allows for trees along the boundary to be retained that will assist in screening the structure. The open carport structure minimises the visual bulk of the structure and maintains a sense of openness in the streetscape. The colour palette selected for the external finishes ensures that the development will blend with the surrounding natural environment.

The safety and security of vehicles and pedestrians is maintained as the design enables vehicles to enter and leave the site in a forward direction and the placement of the driveway ensures that adequate sightlines are provided.

For reasons outlined in this Statement of Environmental Effects the proposed development at 20 The Serpentine, Bilgola Beach (and ancillary to the development at 18 and 20 the Serpentine) should be granted development consent.