

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0741
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Responsible Officer:	Megan Surtees
Land to be developed (Address):	Lot 17 DP 271139, 1 Bubalo Street WARRIEWOOD NSW 2102
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Bronwyn Elizabeth Sommer Paul Andrew Sommer
Applicant:	Outbuild Group

Application Lodged:	06/07/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	14/07/2020 to 28/07/2020
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 17,320.00
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PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the construction of a plunge pool and associated decking pursuant to the *Pittwater Local Environmental Plan (PLEP) 2014*.

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 21 Development Control Plan - B8.2 Construction and Demolition - Erosion and Sediment Management

Pittwater 21 Development Control Plan - B8.3 Construction and Demolition - Waste Minimisation

Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments

Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

SITE DESCRIPTION

Property Description:	Lot 17 DP 271139 , 1 Bubalo Street WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Bubalo Street.</p> <p>The site is regular in shape with a frontage of 11m along Bubalo Street and a depth of 30m. The site has a surveyed area of 330m².</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a two (2) storey residential dwelling.</p> <p>The site has a northerly orientation with a very minor slope falling in the direction of the street frontage towards the rear.</p> <p>The site is currently under construction with the consent associated with DA2019/0385. The landscaping works associated with DA2019/0385 are yet to be completed and upon completion the site will have canopy trees and areas of turf within the front and rear setbacks.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by vacant lots and lots with two (2) storey residential dwellings.</p>

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:

13 June 2013

Planning Proposal to increase residential densities; PP0003/13.

5 February 2015

Planning Proposal to amend Pittwater LEP 2014 consistent with recommendations of the Warriewood Valley Strategic Review Addendum Report 2014; PP0001/14.

28 October 2016

Development Application for the subdivision of land and provision of infrastructure, resulting in 30 Torrens Title residential lots, 4 Community Title lots, dedication of the creekline corridor, and the creation of a new public road; N0491/16. Refused by Council and under appeal it was approved under Court consent.

14 March 2018

A pre-lodgement meeting was held for the construction of a new dwelling; PLM2018/0044.

31 May 2018

A Construction Certificate was lodged with Council for the commencement of subdivision works; CC2018/0680.

7 June 2018

The Principal Certifying Authority was appointed and the relevant documentation was lodged with Council for the subdivision of land and provision of infrastructure, resulting in 30 Torrens Title residential lots, 4 Community Title lots, dedication of the creekline corridor, and the creation of a new public road; PCA2018/0082.

28 June 2018

A Traffic Control/Traffic Management Permit was created and completed for the provision of traffic control and traffic management; PERM2018/00542.

13 July 2018

An Out of Hours Works Permit was lodged; PERM2018/00617. A Stand Plan Permit was created and approved; PERM2018/00618.

20 November 2018

A Works Zone permit was created; PERM2018/01047.

26 April 2019

A Development Application (DA2019/0385) was submitted to Council for the construction of a new two (2) storey residential dwelling. This application was approved, subject to conditions.

17 July 2020

A site visit was conducted.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

Section 4.15 Matters for Consideration'	Comments
	<p>requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 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>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification & Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application 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 development application has been publicly exhibited from 14/07/2020 to 28/07/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Nicole Juliet Gock Mr Michael Anthony Gock	30 Baz Retreat WARRIEWOOD NSW 2102

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

- Non-compliant rear fence height.
- Identification of correct location of the boundary and retaining wall located on 30 Baz Retreat; and, the possible removal of the retaining wall.
- Gap between the existing retaining wall and fence.

The matters raised within the submissions are addressed as follows:

- *Concern has been raised by the owners of the lot behind the subject site, being 30 Baz Retreat (Lot 22 DP 270907), that the excavation works of the subject site has resulted in lower levels to their property. As such, the owners of 30 Baz Retreat have concerns that the 1.8m high rear boundary fence (which acts as a side boundary fence for 30 Baz Retreat) will not be a safe height to adhere to swimming pool safety regulations.*

Comment:

As a result of the excavation works on the subject site, and the subsequent raised land at 30 Baz Retreat, Council is concerned the proposed rear boundary fence does not achieve compliance with swimming pool safety fence requirements as listed under the relevant Acts and Regulations. As is standard practice, a condition of consent has been applied, which is a standard condition applied when applications include the construction of a swimming pool. This condition ensures that the swimming pool cannot be filled with water until all required safety fencing has been erected in accordance with, and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards including, but not limited to, the following:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008;
- (iv) Australian Standard AS1926 Swimming Pool Safety;
- (v) Australian Standard AS1926.1: Safety barriers for swimming pools;
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

In short, the swimming pool cannot be filled with water and used until the Principal Certifying Authority is satisfied that all safety requirements have been addressed. Should the rear 1.8m high boundary fence not be compliant with the swimming pool safety fence requirements, the owners of the subject site would be required to either move the boundary fence, or erect another safety fence within the boundaries of the subject site, to achieve compliance with all swimming pool safety fence requirements.

- *Concern has been raised by the owners of 30 Baz Retreat with regards to the exact location of the property boundaries of 30 Baz Retreat. There is an existing retaining wall that the owners of 30 Baz Retreat believe to be the location of the property boundaries, however the survey provided show that the retaining wall is located entirely within the property boundaries of 30 Baz Retreat. As such, the submission requests the boundary be appropriately identified prior to the construction of the fence. Further, of particular concern is the desired removal of the retaining wall.*

Comment:

A standard condition of consent has been included within this report to ensure that, prior to the issue of the Construction Certificate, a Boundary Identification Survey is obtained. This survey is to be prepared by a registered surveyor. The results of the boundary identification survey should mitigate any concerns relating to the location of the boundary.

The removal of the retaining wall located within the property boundaries of 30 Baz Retreat is not under assessment for this application, nor can a condition of consent be applied to this application for the removal or alterations of the retaining wall. It is recommended the owners of 30 Baz Retreat discuss the removal of the existing retaining wall located entirely within 30 Baz Retreat with the certifier who signed off on the works associated with the subdivision development application to ensure the placement is correct.

- *Concern has been raised by the owners of 30 Baz Retreat with regards to the possible gap created between the existing retaining wall and proposed 1.8m high fence. Of particular concern is that small children and pets can fall down this gap and would be difficult to be retrieved.*

Comment:

The potential creation of a gap between the existing retaining wall and previously approved 1.8m high rear fence at 1 Bubalo Street will be located entirely within the boundaries of 30 Baz Retreat. As such, it is the responsibility of the owner of 30 Baz Retreat to mitigate any safety concerns should a gap be created.

REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	No objections to approval subject to conditions as recommended.
NECC (Water Management)	This application has been assessed and is compliant with the Water Management Report Rev 7 for 41 Warriewood Road and the Warriewood Valley Water Management Specification. The lot is limited to 65% impervious area - the area restricted by the size of the bio-retention basin that provides detention and water

Internal Referral Body	Comments
	<p>treatment for the subdivision. Particular care should be taken to ensure sediment does not enter the street gutters, as this will impact the bio-retention basin for 41 Warriewood Road, which the residents will be responsible for maintaining.</p> <p>The sediment and erosion control plan provided by Clarendon Homes must be updated to show stabilised access and sediment protection for street gutters.</p> <p>Council proactively inspects construction sites to ensure sediment controls are in place.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable and with no requirements necessary.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the

- electricity infrastructure exists).
- immediately adjacent to an electricity substation.
 - within 5.0m of an overhead power line.
 - includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable and with no requirements necessary.

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
Height of Buildings:	8.5m	1.6m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Rear building line	4.0m (Ground Level)	2.1m	47.5%	No
Side building line	0.9m (Ground Level) (North-eastern boundary)	1.0m	N/A	Yes
	0.9m (Ground Level) (South-western boundary)	6.6m	N/A	Yes
Landscaped area	35%	18.75%	46.4%	No

(115.5m²)

(61.9m²)

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	No	Yes
B8.3 Construction and Demolition - Waste Minimisation	No	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.17 Swimming Pool Safety	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No	Yes
D16.7 Side and rear building lines	No	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

Detailed Assessment

B8.2 Construction and Demolition - Erosion and Sediment Management

The relevant swimming pool plans (prepared by Outbuild Creative Outdoor Living, dated 5 May 2020) do not depict a sediment and erosion control management. As such, a condition of consent will be included within this report to ensure an appropriate sediment and erosion management is installed.

B8.3 Construction and Demolition - Waste Minimisation

A Waste Management Plan does not accompany this application. As such, a condition of consent will be included within this report to ensure appropriate measures of waste management and minimisation are implemented prior to the issue of the construction certificate, during construction, and prior to the issue of an occupation certificate.

D16.5 Landscaped Area for Newly Created Individual Allotments

This control requires a 35% landscaped area for lots 9m - 14m wide - this requirement is applicable as the subject site is 11.0m wide. The proposed development will result in a landscaped area of 18.75% (or 61.9m²). This presents a variation of 46.4%.

There are areas within the site that will facilitate the infiltration of stormwater runoff. However, due to the minimum dimensions of 4m, these areas are not included in the calculation of overall landscaped areas on the site.

Under *Pittwater Local Environmental Plan (PLEP) 2014*, landscaped area is defined as a part of the site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. When applying this definition to the calculation of landscaped area for the site (that is, by including areas with a dimension of less than 4m), the total landscaped area is increased to 91.3m² or 27.6%. With this, the landscaped area remains numerically non-compliant.

Further, consideration has been given to the additional reduction in the landscaped area of the site. However, there is precedents of approved development applications which permitted less than specified landscaped areas (for example, 12 Bubalo Street [DA2019/1150], 7 Bubalo Street [DA2019/1030] and 14 Bubalo Street [DA2020/0027]). As such, consideration is given to the vary this control, as follows:

Merit Consideration

The proposed development is considered against the underlying outcomes of this control in the following ways:

- *Conservation of significant natural features of the site and contribution to the effective management of biodiversity.*

Comment:

The subject site was recently part of a major subdivision and is currently under construction and void of any vegetation. However, the previously approved development application for the construction of a dwelling house included a landscape plan, with relevant conditions being imposed to ensure canopy trees and other native vegetation is located on the site.

- *Warriewood Valley achieves a unified and high quality landscape character that contributes to the sense of place.*

Comment:

The previously approved landscape plan will provide a unified and high quality landscape character that will positively contribute to the sense of place within the newly created subdivision. Further, the proposed swimming pool is not anticipated to detract from this high quality landscape character of Warriewood Valley.

- *Landscaping promotes ecologically sustainable outcomes, maintaining and enhancing biological diversity and ecological processes.*

Comment:

The previously approved landscape plan ensures that the landscape treatments of the site will promote ecologically sustainable outcomes that maintain and enhance the biological diversity and ecological processes of the site.

- *The area of site disturbance is minimised.*

Comment:

The circular shape of the proposed plunge pool has a diameter of 3.5m, with a maximum excavation of 1.0m below the natural ground level. As such, the plunge pool requires a minor

degree of site disturbance. However, the required excavation works are considered to be minor and, as per control B8.1 of P21 DCP, does not trigger the need for associated environmental reports.

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

Comment:

While the site is numerically non-compliant with the minimum requirements for landscape area, the site does maintain areas of deep soil which will ensure that stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.

- *Landscaped areas should be predominately areas of deep soil.*

Comment:

The remaining landscaped areas of the site consist of deep soil areas which are suitable for canopy tree planting.

- *New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.*

Comment:

The proposed plunge pool is located within the rear eastern corner of the subject site. The dwelling house will obstruct the plunge pool from the street frontage, as such, there will be no impact upon the streetscape and surrounding neighbourhood.

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

Comment:

The proposed plunge pool will not impact upon the privacy and amenity of adjoining and surrounding properties.

While the proposed development will result in a numeric non-compliance to the landscaped area requirement, it is considered acceptable and consistent with the abovementioned outcomes. As such, the proposal can be supported on merit.

D16.7 Side and rear building lines

This control requires the following side setbacks for detached dwellings with a lot width between 9m-14m: 0.9m on both sides. The proposed plunge pool achieves compliance with the side setback requirements.

This control also requires the rear setback distance to be 4.0m for front loaded lots equal to or greater than 20.0m deep. The proposed plunge pool coping will result in a 2.1m rear setback, and the plunge pool will result in a 2.2m rear setback. This presents a variation of 47.5%.

Merit Consideration

The proposed development is considered against the underlying outcomes of this control in the following ways:

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

Comment:

Under A4.16 Warriewood Valley Locality of P21 DCP, the proposed development is consistent with the objectives of the desired future character of Warriewood Valley. Due to the site constraints which are synonymous with newly created allotments within the Warriewood Valley subdivision, most newly constructed dwellings do not achieve compliance with this control. However, the previously approved landscape plan, which includes the provision of native plants (including canopy trees), remains visually consistent with the surrounding detached dwellings. Additionally, the bulk and scale of the proposed development will be minimised by landscape treatments, which will contribute to the privacy of the subject site, and adjoining properties.

- *The area of site disturbance is minimised and soft surface is maximised.*

Comment:

As discussed elsewhere in this report, the proposed plunge pool requires a degree of site disturbance. However, all efforts have been made to ensure the previously approved landscape plan remains unaffected as a result of the proposed plunge pool and soft surface areas within the site are maximised where possible.

- *The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.*

Comment:

The proposed plunge pool is generally in-ground and is obscured from view by appropriate pool fencing. As such, the bulk and scale of the built form is minimised and will not adversely impact upon the privacy, amenity and solar access of the surrounding and adjoining properties.

- *To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.*

Comment:

The proposed plunge pool is generally in-ground and, as such, will create meaningful breaks between adjoining buildings and will provide a regular rhythm of the built form, and will achieve consistency with other dwellings within the subdivision.

- *To create usable curtilage areas around buildings for viable access, landscaping and open space.*

Comment:

The proposed plunge pool will encompass the eastern corner of the subject site, and access from the front yard to the rear yard is still maintained, thus achieving viable access throughout the site. The open space of the site, including the proposed plunge pool, will provide a degree of functionality for the occupants of the subject site. As discussed elsewhere in this report, the previously approved landscape plan will not be adversely impacted as a result of the proposed plunge pool.

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

Comment:

The proposed plunge pool is unlikely to impact upon the views and vistas to and/or from public/private places due to the in-ground nature of the plunge pool.

- *Vegetation and natural features of the site is retained and enhanced within the development site*

design to screen the visual impact of the built form.

Comment:

As discussed elsewhere in this report, the previously approved landscape plan has not yet been finalised. As such, the proposed plunge pool will not adversely impact upon the previously approved landscape plan and, upon completion, the landscape treatments will reasonable screen the built form.

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

Comment:

As previously discussed, the proposed plunge pool will continue to provide a reasonable level of privacy and amenity to the occupants of the subject site, and to those of adjoining properties.

While the proposed development results in a numeric non-compliance to the rear boundary setback requirement, the overall development is considered acceptable and consistent with the abovementioned objectives. As such, the proposal can be supported on merit.

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.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP

- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/0741 for Alterations and additions to a dwelling house including a swimming pool on land at Lot 17 DP 271139, 1 Bubalo Street, WARRIEWOOD, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sheet 1 of 1 - Site Plan, Pool Detail Plan & Section AA	5 May 2020	Outbuild - Creative Outdoor Living

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a

safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

6. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

7. **Updated Erosion and Sediment Control Plan**

The Erosion and Sediment Control Plan (ESCP) prepared by Clarendon Homes must be updated by an appropriately qualified person to indicate the location of stabilised site access and protection of street gutters.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment

8. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

9. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including any excavated material is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. Waste Management During Construction

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

11. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the updated Erosion and Sediment Control Plan prepared by Clarendon Homes.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

12. Swimming Pool Requirements

The Swimming Pool shall not be filled with water nor be permitted to retain water until:

(a) All required safety fencing has been erected in accordance with and all other requirements have been fulfilled with regard to the relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

(b) A certificate of compliance prepared by the manufacturer of the pool safety fencing, shall be submitted to the Principal Certifying Authority, certifying compliance with Australian Standard 1926.

(c) Filter backwash waters shall be discharged to the Sydney Water sewer mains in accordance with Sydney Water's requirements. Where Sydney Water mains are not available in rural areas, the backwash waters shall be managed onsite in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system. Appropriate instructions of artificial resuscitation methods.

(d) A warning sign stating '**YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL**' has been installed.

(e) Signage showing resuscitation methods and emergency contact

(f) All signage shall be located in a prominent position within the pool area.

(g) Swimming pools and spas must be registered with the *Division of Local Government*.

Any modifications or relocation required to boundary fencing to achieve compliance with the safety fencing requirements are to be at the owner of the subject site's expense (not neighbour's expense).

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

Reason: To protect human life


13. **Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence/documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled, reused and to limit landfill.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Megan Surtees, Planner

The application is determined on 27/08/2020, under the delegated authority of:



David Auster, Acting Development Assessment Manager