

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**FOR THE CONSTRUCTION OF A NEW SWIMMING POOL**

**LOCATED AT**

**14 BUBALO STREET, WARRIEWOOD**

**FOR**

**TANJA & MARKUS OSTERMAIER**



**Prepared  
April 2020**

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## 1.0 Introduction

This Statement of Environmental Effects accompanies details prepared by Premier Pools, Job No. 6674, Sheets No. 1/2, 2/2 & 1/1 dated 31 March 2020 on behalf of Tanja and Markus Ostermaier to detail the construction of a new swimming pool at **14 Bubalo Street, Warriewood.**

The site is currently vacant however construction of a new dwelling was approved by Council under Development Application No. DA2020/0027, dated 23 March 2020.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Pittwater Local Environmental Plan 2014*
- *Pittwater 21 Development Control Plan 2014*

## 2.0 Property Description

The subject allotment is described as 14 Bubalo Street, Warriewood, being Lot 27 within Deposited Plan 271139 and is zoned R3 Medium Density Residential under the Pittwater Local Environmental Plan 2014.

The site is noted on Council's Acid Sulfate Soils Map as being with Area 5. This will be discussed in further detail within this report.

The site is identified as being Low Risk Flood Prone Land, with a small portion of the north-western portion of the site being Medium Risk Flood Prone Land. This matter will be discussed within further detail within this statement.

The site is identified as being within the Coastal Zone under the provisions of State Environmental Planning Policy (Coastal Management) 2018. This matter is discussed in further detail within this report.

There are no other identified hazards affecting this site.

### 3.0 Site Description

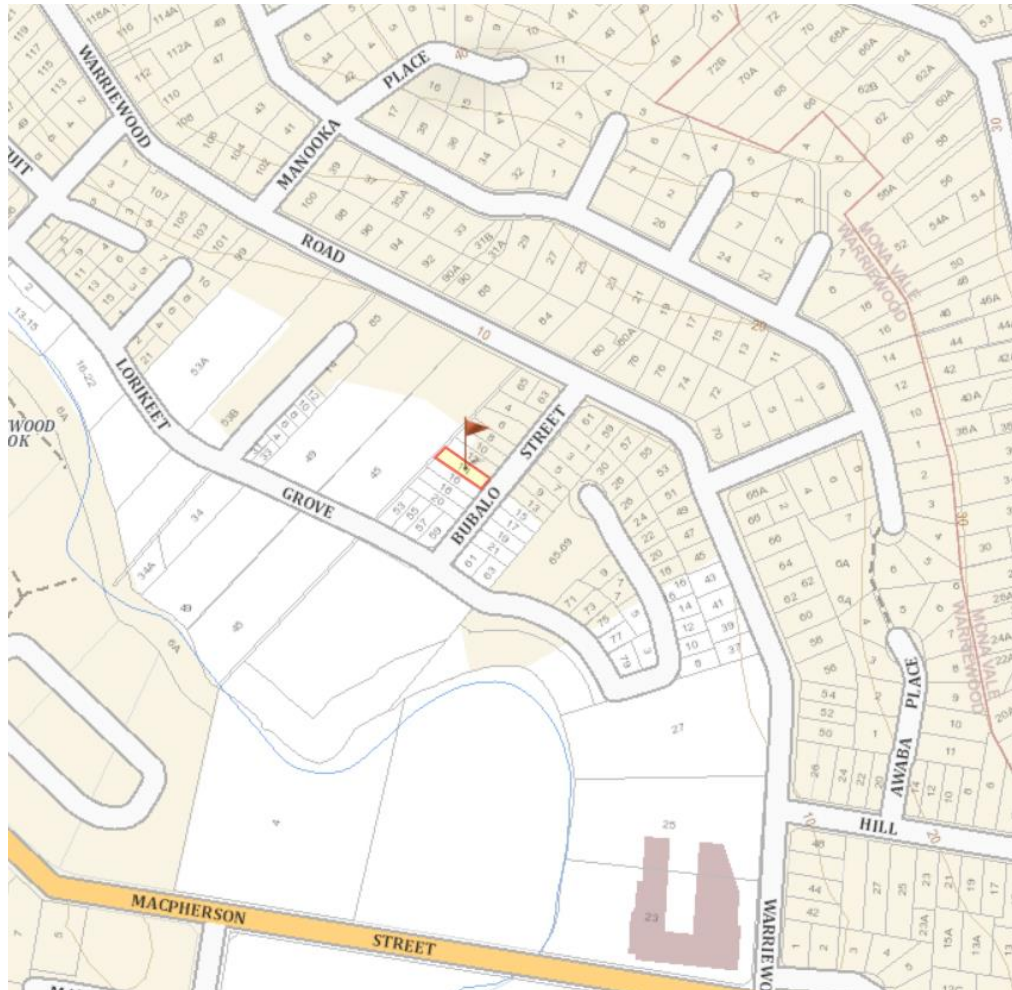
The site is located on the north-western side of Bubalo Street and falls gradually towards the front, north-western corner.

The land has a general fall to the north-west, with stormwater from the roof areas to be directed to the street gutter in Bubalo Street.

The site is generally regular in shape with an angled south-eastern frontage to Bubalo Street measuring 9.055m. The north-eastern and south-western side boundaries measure 37.17m and 37.74m respectively. The angled rear boundary measures 9.13m. The total site area is 337.1m<sup>2</sup>.

The site is currently vacant however construction of a new dwelling was approved by Council under Development Application No. DA2020/0027, dated 23 March 2020.

The details of the parcel are contained within the survey report prepared by Donovan Associates, Reference No 2018/311498, dated 11 April 2019, which accompanies the DA submission.



**Fig 1: Location of Subject Site**  
(Source: Six Maps)

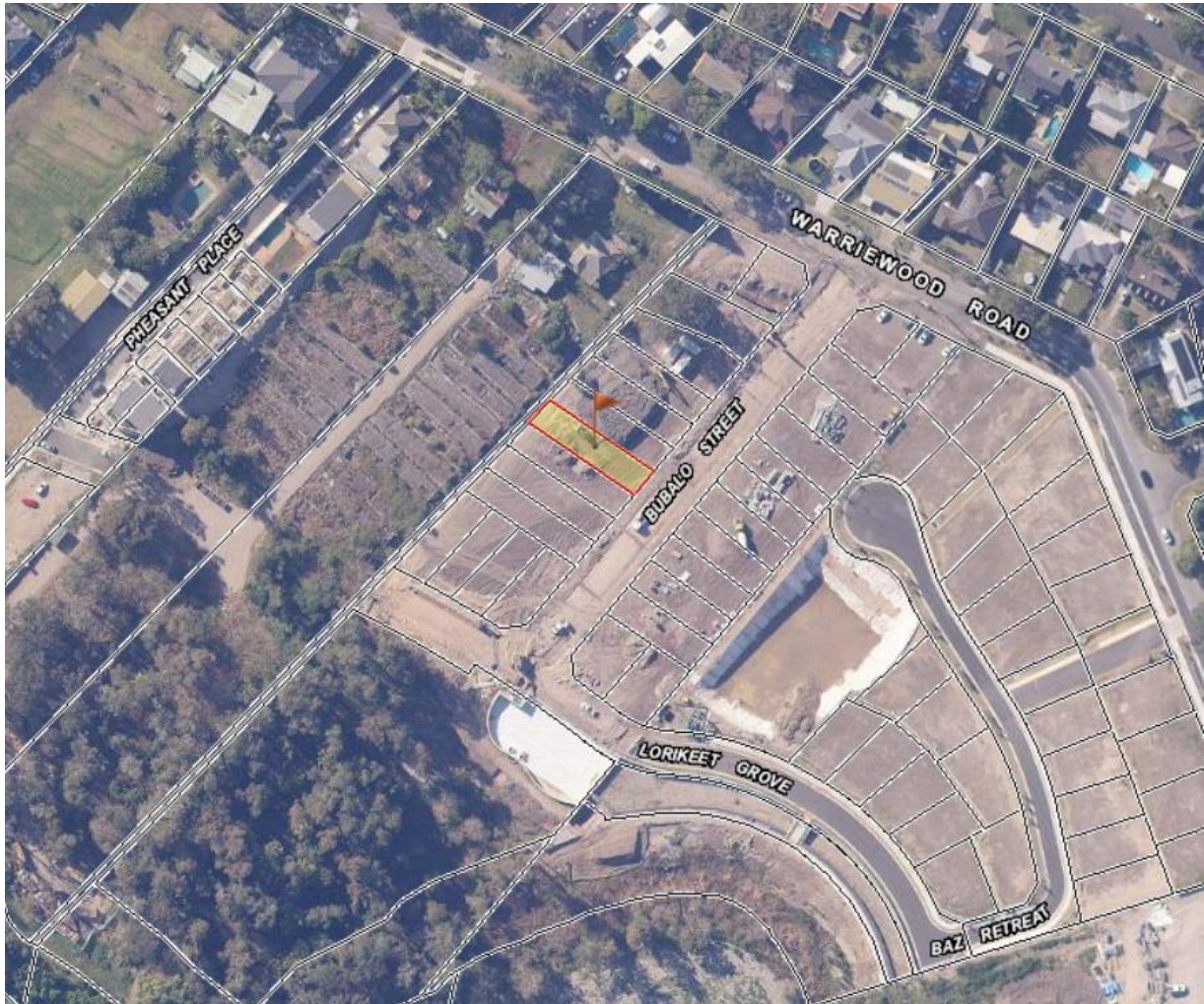




**Fig 2: View of general location of new dwelling within new land release area, looking north-east from Bubalo Street**

#### 4.0 The Surrounding Environment

The general vicinity of the site is characterised by undeveloped, regular shaped allotments within the Warriewood Valley land release area.



**Fig 3: Aerial Photograph**  
(Source: Six Maps)

## 5.0 Proposed Development

As detailed within the accompanying plans, the proposal seeks approval for the construction of an in-ground swimming pool within the rear yard.

The site is currently vacant however construction of a new dwelling was approved by Council under Development Application No. DA2020/0027, dated 23 March 2020.

The capacity of the proposed pool is approximately 18.6KL.

The pool will be separated from the dwelling by an isolation fence and from adjoining properties by the boundary fencing. The fence and barriers to the pool will comply with the Swimming Pools Act 1992 & Regulations and are to be constructed in accordance with AS 1926.1-1993 "Fencing for Swimming Pools."

The development indices for the development are summarised as:

Site Area	337.1m <sup>2</sup>
Required Landscaped Area:	35% or 117.985m <sup>2</sup>
Proposed Landscaped Area:	48.6% or 163.7m <sup>2</sup>



## **6.0 Zoning and Development Controls**

### **6.1 State Environmental Planning Policy No. 55 – Remediation of Land**

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

### **6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The pool volume will be less than 40,000L (18,600L) and therefore a BASIX Certificate is not required in this instance.

### **6.3 State Environmental Planning Policy (Coastal Management) 2018**

The subject site has been identified as being within the coastal zone and therefore SEPP (Coastal Management) 2018 is applicable to the proposed development.

The stated Aim of the Policy under Clause 3 is to:

*The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The Coastal Management Act 2016 states within **Clause 3**:

The **objects** set out in **Clause 3** of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*



- (f) *to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) *to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) *to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) *to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) *to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*
- (k) *to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) *to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) *to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the assessment detailed under the Statement of Environmental Effects suggests that the proposed development is consistent with the objects of the SEPP (Coastal Management) 2018, as set out in Clause 3 of the Coastal Management Act 2016.

The matters for consideration under Division 5 of SEPP (Coastal Management) 2018 are:

**15    *Development in coastal zone generally—development not to increase risk of coastal hazards***

*Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

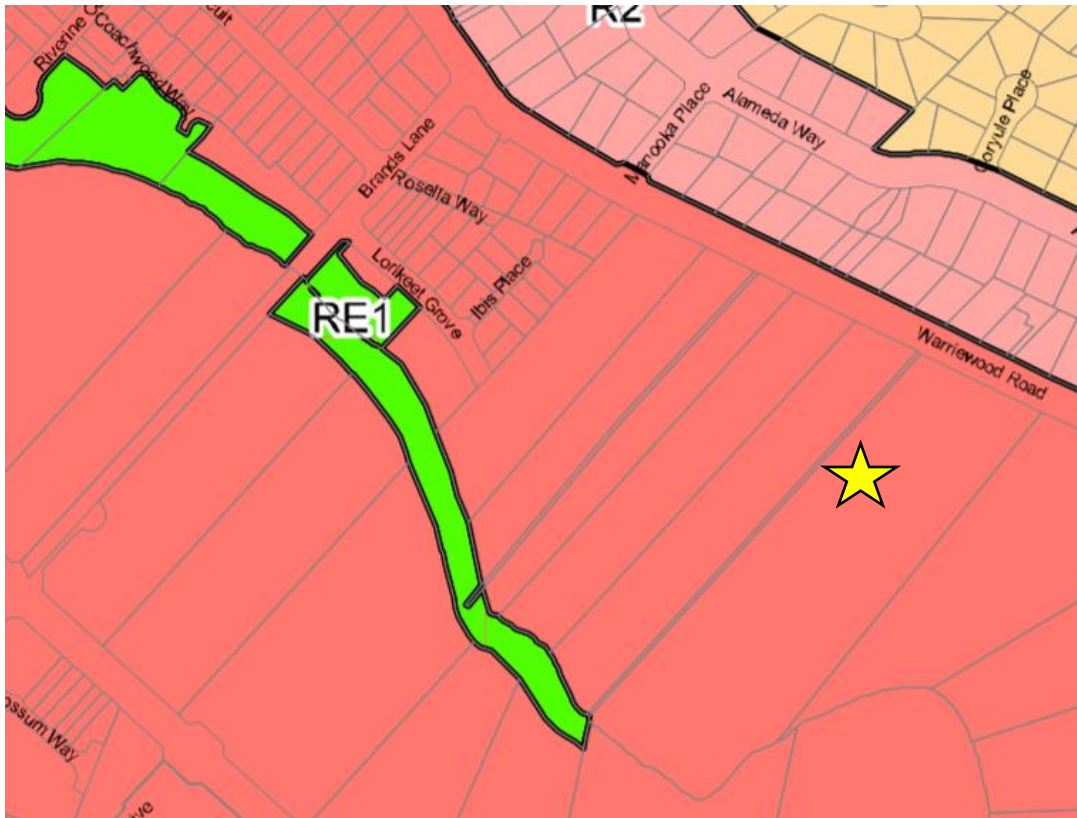
The proposal provides for the construction of a new swimming pool which is ancillary to the existing dwelling. The proposed new works will not require significant disturbance to the site and are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

The assessment has concluded that the proposed development is consistent with the matters for consideration under the SEPP (Coastal Management) 2018.

## 6.4 Pittwater Local Environmental Plan 2014

### Clause 2.3 Zone Objectives and land Use Table

The subject site is zoned R3 Medium Density Residential Zone under the Pittwater LEP 2014.



**Fig 4: Extract of Pittwater Local Environmental Plan 2014 Zoning Map**

The proposed construction of a new dwelling is considered to be permissible with the consent of Council in the R3 zone.

The development of and use of the land for residential purposes within the R3 Medium Density Residential Zone is consistent with the zone objectives, which are noted as:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

It is considered that the proposed construction of a new swimming pool will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality.
- The proposal does not have any adverse impact on long distance views.

#### **Clause 4.3 – Height of Buildings**

The maximum building height in this portion of Warriewood is 10.5m.

Given the nature of the pool at ground level (flush with ground level) the structure will comply with Council's height controls. The proposed new swimming pool fences will have a maximum height of approximately 1.2m and also comply with this control.

#### **Clause 6.1 – Warriewood Valley Release Area**

The subject site is within the Warriewood Valley Release Area and the following provision therefore applies.

- (4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the proposed development will not have any adverse impact on any of the following:*
- a) opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors, and*
  - b) the water quality and flows within creek line corridors, and*
  - c) the stability of the bed, shore, and banks of a watercourse within creek line corridors.*

The proposal provides for the construction of a new swimming pool. The proposal is not considered to impact on any nearby aquatic and riparian vegetation. As the proposal seeks to provide for a pool only, no water quality issues are anticipated.

**Clause 7.1** relates to acid sulfate soils. The site has been identified as being within the Class 5 Acid Sulfate Soils Area. The construction of the new swimming pool will require minor excavation, and it is not anticipated that acid sulfate soils will be encountered. Suitable sediment control measures will be carried out as necessary.

**Clause 7.2** relates to earthworks. The proposal will not require any significant excavation of the site, other than to accommodate the construction of the pool. The pool design will be prepared by a suitably qualified Structural Engineer.

The earthworks to locate the pool will be carried out under the supervision of the Consulting Structural Engineers and therefore satisfy the provisions of this clause.

#### **Clause 7.6 – Biodiversity protection**

The subject site is noted within Council's Biodiversity Area.

- (1) The objective of this clause is to maintain terrestrial, riparian and aquatic biodiversity by:*

- (a) protecting native fauna and flora, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

The subject site is vacant, and the development will not see any substantial disturbance to the existing flora, with no significant trees or natural vegetation to be removed. The proposal maintains property boundaries which are capable of accommodating locally occurring species as directed by Council.

**Clause 7.10 – Essential Services**

The proposal will provide the necessary essential services to the dwelling as required.

There are no other clauses of the PLEP 2014 that are considered to be relevant to the proposed development.



## **6.5 Pittwater Development Control Plan 2014**

Council's Pittwater 21 DCP and Section D16 Warriewood Locality Statement provide a range of outcomes and controls which form the primary criteria control for development within the subject locality.

### **6.5.1 Shaping Development – Desired Character**

#### **A4.16 Warriewood Valley Locality**

*Warriewood Valley is situated at the base of the escarpment, known as Ingleside Chase Reserve, between Mona Vale and Warriewood (see map). It comprises of land known as "Stage 1 Release" and land identified as the Warriewood Valley Release Area.*

*The Warriewood Valley Release Area, first identified in 1997 as a Release Area, comprises of 110 hectares including 32.68 hectares of industrial/commercial land and associated community facilities and infrastructure. Two recent reviews have been undertaken, firstly the Warriewood Valley Strategic Review 2012 and secondly the Warriewood Valley Strategic Review Addendum Report 2014. The Release Area now includes land within 400m of the Warriewood Sewerage Treatment Plant (known as Buffer Areas 1, 2 and 3) encompassing an area of approximately 190 hectares.*

*Warriewood Valley Release Area is primarily a residential area expected to provide a total of 2,451 new dwellings (this figure includes the dwellings approved under the former Part 3A legislation but does not include development in Stage 1 Release considered to be completed in 1997.). When completed, it is anticipated to accommodate 6,618 residents (based on an average household occupancy of 2.7 persons per household).*

*Warriewood Valley Release Area continues to be developed as a desirable urban community in accordance with the adopted planning strategy for the area, and will include a mix of low to medium density housing, industrial/commercial development, open space and community services. The creek line corridors, roads and open space areas form the backbone of the new community, complemented with innovative water management systems, the natural environment, pedestrian/cycle path network, public transport, and recreation facilities.*

*Stage 1 Release, has a residential component and a business/industrial component. The residential area is characterised by two storey residential attached dwellings with the area fully developed. The industrial/business area is defined by up to three storey large complexes that generally contain smaller units. The majority of the business/industrial zoned land has been developed with some smaller parcels still to be developed in the northern industrial area.*

*The Warriewood Valley locality is characterised by a mix of residential, retail, commercial, industrial, recreational, and educational land uses.*

*Warriewood Valley is affected by various hazards and contains heavily vegetated areas, threatened species, or areas of natural environmental significance, which are identified on various maps within the Pittwater LEP 2014.*

*A number of identified heritage items are located in Warriewood Valley.*

It is considered that the proposal is consistent with the desired character of the locality by providing for the construction of a new swimming pool., ancillary to an approved dwelling

The proposed swimming pool is sited flush with the existing ground level of the rear yard and will not be visually prominent within the Warriewood Valley locality.

The proposal will not require the removal of any significant trees, and new plantings will be provided throughout the site (as approved under Development Application No. DA2020/0027) to further soften the built form of the development.

#### **6.5.2 Section B General Controls**

The General Controls applicable to the proposed swimming pool are summarized as:

##### **B3.11 Flood Prone Land**

The controls seek to achieve the outcomes:

*Protection of people.*

*Protection of the natural environment.*

*Protection of private and public infrastructure and assets.*

The proposal provides for a swimming pool only, and therefore no further investigation is required.

##### **B3.13 Flood Hazard – Flood Emergency Response Planning**

The controls seek to achieve the outcomes:

*Protection of people.*

*Protection of the natural environment.*

*Protection of private and public infrastructure and assets.*

The proposal provides for a swimming pool only, and therefore no further investigation is required.

##### **B4.15 Saltmarsh Endangered Ecological Community**

The controls seek to achieve the outcomes:

*To conserve and enhance saltmarsh vegetation. (En)*

The proposed works provide for a new swimming pool which is wholly contained within the subject site. Stormwater from the site will be suitably managed, and the proposal is not considered to result in any adverse impacts for saltmarsh vegetation.

### **B5.8 Stormwater Management – Water Quality – Low Density Residential**

The controls seek to achieve the outcomes:

*No increase in pollutants discharged with stormwater into the environment. (En)*

*Development is compatible with Water Sensitive Urban Design principles. (En)*

Stormwater from the approved dwelling is directed to the street gutter via a 4000L rainwater tank. Overflow from the proposed pool will be connected to the existing stormwater system.

### **B8.1 Construction & Demolition – Excavation and Landfill**

The controls seek to achieve the outcomes:

*Site disturbance is minimised. (En)*

*Excavation and construction not to have an adverse impact. (En)*

*Excavation operations not to cause damage on the development or adjoining property. (S)*

There will not be any significant excavation of the site or disturbance to the exterior ground levels, other than for the construction of the pool. No adverse impacts anticipated.

### **B8.2 Construction & Demolition – Erosion and Sediment Management**

The controls seek to achieve the outcomes:

*Waterways, coastal areas, watercourses, drainage systems and the public domain are protected from the transportation of sedimentation from development sites. (En)*

*Reduction of waste throughout all phases of development. (En)*

*Public safety is ensured. (S)*

*Protection of the public domain. (S, En)*

As required, appropriate sedimentation controls will be implemented throughout construction to prevent transportation of sediment to adjoining properties.

### **B8.3 Construction and Demolition – Waste Minimisation**

The controls seek to achieve the following outcomes:

*Reduction management of demolition, excavation and construction works is to be minimised by reuse on-site, recycling, or disposal at an appropriate waste facility. (En)*

The construction works will seek to minimise waste by re-using material where possible or recycling appropriate materials. All construction waste will be removed from the site to an approved waste facility.

### 6.5.3 Section C Development Type Controls

The Development Controls applicable to the proposed development and are summarised as:

#### **C1.1 Landscaping**

The controls seek to achieve the outcome:

- A built form softened and complemented by landscaping. (En)*
- Landscaping reflects the scale and form of development. (En)*
- Retention of canopy trees by encouraging the use of pier and beam footings. (En)*
- Development results in retention of existing native vegetation. (En)*
- Landscaping results in the long-term retention of Pittwater's locally native tree canopy. (En)*
- Landscaping retains and enhances Pittwater's biodiversity by using locally native plant species (En)*
- Landscaping enhances habitat and amenity value. (En, S)*
- Landscaping results in reduced risk of landslip. (En, Ec)*
- Landscaping results in low watering requirement. (En)*

The proposal will not require the removal of any significant trees, and new plantings will be provided throughout the site (as approved under Development Application No. DA2020/0027) to further soften the built form of the development.

#### **C1.3 View Sharing**

The controls seek to achieve the outcomes:

- A reasonable sharing of views amongst dwellings. (S)*
- Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S)*
- Canopy trees take priority over views. (En, S)*

The subject and adjoining properties currently enjoy a local outlook. As the works are for a swimming pool sited at ground level, no views from public or private property are affected.

#### **C1.5 Visual Privacy**

The controls seek to achieve the outcomes:

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

The required controls to achieve the outcomes are to ensure that the private open space, recreation areas and living rooms within 9m of a development are suitably protected to limit the effects of direct overlooking.



The proposed setbacks of the new swimming pool will see visual amenity maintained for neighbouring properties.

The proposed pool is located largely in keeping with existing ground level and given the approved perimeter screen planting, will not result in an adverse impact to the amenity of the neighbouring properties.

#### **C1.6 Acoustic Privacy**

The controls seek to achieve the outcomes:

*Noise is substantially contained within each dwelling and noise from any communal or recreation areas are limited. (S)*

*Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas (S)*

The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources. The proposed pool is located at ground level, with the pool equipment to be contained in a soundproof enclosure.

#### **C 1.12 Waste and Recycling Facilities**

The controls seek to achieve the outcomes:

*Waste facilities are accessible and convenient, and integrate with the development. (En)*

*Waste facilities are located such that they do not adversely impact upon amenity of the land adjoining development or natural environment. (En, S)*

The required controls to achieve the outcomes are to ensure that adequate area remains for the storage of waste and recyclable materials. There is sufficient area surrounding and within the garage for on-site storage of waste and recyclables, with the waste removed by Council contractors via the household garbage service.

#### **C 1.17 Swimming pool safety**

The controls seek to achieve the outcomes:

*The promotion of personal safety. (S)*

*Compliance with Swimming Pools Act 1992 and Regulations (En, S)*

The required controls to achieve the outcomes are to ensure that swimming pools are provided with suitable fencing in accordance with the Swimming Pools Act 1992. The proposal will provide for a perimeter fence to the swimming pool, which maintains an effective barrier between the dwelling and the pool.

#### 6.5.4 Section D Locality Specific Development Controls

The **D16 Warriewood Valley Locality Statement** contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

In support of the proposal, it is considered that this proposal is well designed, comprehensive and consistent with the community's vision for development in Pittwater in that it is:

- Proposing a form of development which is compatible with the desired future residential character of the area by maintaining an appropriate development scale which is compatible with the vicinity.
- The overflow from the pool will be contained and directed to the street gutter in accordance with the approved conditions. There will not be any adverse siltation or water pollution impacts on the general drainage system of the area or to local waterways.
- The development will not place unreasonable demands on local infrastructure or on the proposed sewage disposal system for the site.

A summary of the DCP controls for the **D16 Warriewood Valley Locality** is provided below:

##### ***D16.1 Character as viewed from a public place***

The controls seek to achieve the outcomes:

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

*To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec)*

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

*The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec)*

*High quality buildings designed and built for the natural context and any natural hazards. (En, S)*

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

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

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

*To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)*

The required controls to achieve the outcomes are to ensure that the building form maintains a compatibility with the locality through appropriate design relief and is secondary to the landscaping of the site. In this instance, the pool is within the rear yard and will not be prominently viewed within the locality.

### **D16.5 Landscaped Area for Newly Created Individual Allotments**

The controls seek to achieve the outcomes:

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

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

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

*The area of site disturbance is minimised.*

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

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

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

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

Dwellings on lots 9m to 14m wide require a minimum landscaped area of 35%, with at least one canopy tree to be provided in the front setback.

The proposal provides a landscaped area of 48.6% and therefore complies with the landscaped area control.

Landscaping has been provided within the front setback under the approved development application for the dwelling as required by Council.

### **D16.6 Front Building Lines**

The controls seek to achieve the outcomes:

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

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

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

*To achieve a consistent built form alignment in the streetscape, which is spacious and attractive, enhanced by tree planting within the front setback.*

*Equitable preservation of views and vistas to and/or from public/private places. Vegetation and natural features of the site are retained and enhanced within the site design to screen the visual impact of the built form.*

*Encourage tandem carparking opportunities on narrow lots and minimise the visual prominence of parking structures in the streetscape.*

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

The proposed works are to be carried out in the rear yard of the site. The front setback of the approved dwelling will remain unchanged.

### **D16.7 Side and rear building lines**

The controls seek to achieve the outcomes:

*To achieve the desired future character of the Locality.*  
*The area of site disturbance is minimised and soft surface is maximised.*  
*The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.*  
*To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built form's presentation to public places.*  
*To create usable curtilage areas around buildings for viable access, landscaping and open space.*  
*Equitable preservation of views and vistas to and/or from public/private places.*  
*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.*  
*To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.*

The relevant controls to achieve this outcome are to maintain a minimum side boundary setback of 0.9m and a minimum rear setback of 4m.

The north-eastern and south-western side boundaries are 2.6m and 0.895m respectively. The proposed south-western boundary therefore presents a minor variation to this control.

The proposed pool will stand 1.4m from the rear boundary and therefore does not comply with the rear setback.

The proposed swimming pool is sited at ground level, and the approved landscape plantings will assist with maximising privacy for the adjoining neighbours.

The proposal will not require the removal of any significant vegetation, and maintains a generous area of soft landscaping.

### **C16.9 Solar Access**

The controls seek to achieve the outcomes:

*Development is sited and designed to maximise solar access, adequate daylight and ventilation to habitable rooms and adequate sunlight to private open spaces during midwinter.*  
*A reasonable level of solar access is maintained for existing residential properties, unhindered by adjoining development. Development allows reasonable solar access to recreational and living areas of adjoining residential developments.*

The required controls to achieve the outcomes are to ensure that private open spaces of the subject and adjoining dwellings maintain a minimum of 2 hours of solar access in mid-winter.



The siting of the proposed pool being at or below ground level ensures that the nearby dwellings will maintain equitable solar access available in accordance with Council's minimum standards.

#### **C16.10 Private Open Space**

The controls seek to achieve the outcomes:

*Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants. (S)*

*Private open space is integrated with, and directly accessible from, the living areas of dwellings. (S)*

*Private open space receives sufficient solar access and privacy (En, S).*

The required controls to achieve the outcomes are to ensure that dwellings are provided with suitable private open space with an area and grade which will facilitate outdoor private recreation. The site will retain the existing rear yard for private recreation, with the proposed works to improve the quality and function of the outdoor recreational opportunities for the owners.

#### **D3.3 Building colours and materials**

The controls seek to achieve the outcomes:

*Dwellings are provided with a private, usable and well located area of private open space for the use and enjoyment of the occupants.*

*Private open space is integrated with the living areas of dwellings.*

*Private open space receives sufficient solar access and privacy.*

*Private open space is appropriate in design and location for Shop Top Housing.*

The proposed pool will be finished in earthy tones to ensure the pool will visually complement the landscaped yard. The approved perimeter landscaping will enhance the integration of the pool within the landscaped appearance of the site.

## **7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979**

### **7.1 The provisions of any environmental planning instrument**

The proposal is subject to the provisions of the Pittwater Local Environmental Plan 2014 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

### **7.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

There are no draft instruments applying to the land.

### **7.3 Any development control plan**

The development has been designed to comply with the requirements of Council's Pittwater 21 Development Control Plan 2014.

The application has been prepared having regard to the requirements of Section B, Section C and Section D of the Pittwater 21 DCP.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular we consider that

the variation to the side and rear setback controls is a reasonable alternative solution to compliance where the site conditions results in a challenge to designing for new development which fully respects the landscaped area criteria.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

**7.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

No matters of relevance are raised in regard to the proposed development.

**7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),**

No matters of relevance are raised in regard to the proposed development.

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

It is considered that the proposal, which seeks consent for proposed construction of a new swimming pool, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 and Council's Codes and Policies, in particular the Pittwater 21 DCP 2014 and the Avalon Beach Locality Statement.

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

It is considered that the proposal, which seeks consent for the construction of a new dwelling on vacant land which will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area, is reasonable.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's PLEP 2014 & the Pittwater 21 DCP and the Warriewood Valley Locality Statement.

**7.8 Any submissions made in accordance with this Act or the regulations**

This is a matter for Council in the consideration of this proposal.

**7.9 The public interest**

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

## **8.0 Conclusion**

The principal objective of this development is to provide for the construction of a new swimming pool which respects and complements the site's location.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls. By maintaining our neighbours amenity and by complementing the existing style and character of the surrounding locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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