

SUBJECT: N0542/17 - Construction of a swimming pool and retaining walls within currently unregistered Lot 17 of an approved subdivision (N0209/14)

Determination Level: Manager - Development Assessment

SUMMARY OF RECOMMENDATION: CONSENT WITH CONDITIONS

REPORT PREPARED BY: Nick Armstrong
APPLICATION SUBMITTED ON: 27 November 2017
APPLICATION SUBMITTED BY: SPACE LANDSCAPE DESIGNS PTY LTD
PO BOX 4178
NORTH CURL CURL NSW 2099
OWNER(S): Abax Contracting Pty Ltd

1.0 SITE DETAILS

The site was formerly known as 2 Fern Creek Road, Warriewood and legally referred to as Lot 2 in DP 736961. The site is currently now known as 8 Cherry Lane, Warriewood and legally referred to as Lot 17 in DP 286740. The site is rectangular in shape with a total area of 410m². Vehicular and pedestrian access is gained via the 17m wide frontage which faces the western side of Cherry Lane. The site is currently vacant. The site is relatively flat with a slight fall from the western boundary to the eastern boundary. Adjoining the site is a mixture of rural landscape and recently subdivided medium density residential land.

2.0 PROPOSAL IN DETAIL

The application seeks consent for the construction of a swimming pool. A subdivision certificate has now been finalised within the former property of 2 Fern Creek Road, Warriewood as of 08/03/2018. The subject site within the subdivision has been renamed Cherry Lane, Warriewood.

3.0 STATUTORY AND POLICY CONSIDERATIONS

The site has zoning of R3 Medium Density Residential under Pittwater Local Environmental Plan 2014. Pursuant to the land use table in Part 2 of this instrument, dwelling houses are permissible with consent.

The following relevant state, regional and local policies and instruments apply:

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SE BASIX)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Area 5
 - Biodiversity Map
 - Geotechnical Hazard Map - W ~ H1 Hazard
 - Height of Buildings Map - I ~ 8.5m and K ~ 10.5m

- Lot Size Map - Y ~ 10,000m²
- Urban Release Area Map - Warriewood Valley
- Pittwater 21 Development Control Plan (P21 DCP)
 - Warriewood Valley Locality
 - Warriewood Valley Sector 901B
 - Geotechnical Risk Management Policy for Pittwater

Variation to development standards:

The application does not seek to vary a development standard.

4.0 BACKGROUND

N0542/17 was lodged at Council at 31/10/2017 and referred to Council's Development Engineer, Natural Environment Officer and Environmental Health Officer.

Property History

02/06/2015

Development Application N0209/14 for a 23 lot subdivision was approved by the NSWLE through a Section 34 agreement.

08/09/2015

Section 96 Modification Application N0209/14/S96/1 for a 23 lot subdivision was approved by Council.

11/07/2016

Section 96 Modification Application N0209/14/S96/2 for a 23 lot subdivision was approved by the NSWLEC.

06/04/2017

Section 96 Modification Application N0209/14/S96/3 for a 23 lot subdivision was approved by the NSWLEC through a Section 34 agreement.

08/03/2018

Subdivision Certificate SC2017/0198 for 23 lot torrens title subdivision was registered.

5.0 NOTIFICATION

N0542/17 was notified from 06/11/2017 to 20/11/2017 to adjoining property owners in accordance with Council's notification policy. The site inspection on the 20/11/2017 confirmed the placement of the notification sign. During the notification period, zero (0) submissions were received.

6.0 ISSUES

- D16.5 Landscaped Area for Newly Created Individual Allotments
- D16.7 Side and rear building lines

7.0 COMPLIANCE TABLE

- T - Can the proposal satisfy the technical requirements of the control?
- O - Can the proposal achieve the control outcomes?
- N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			Y	Y	Y
Zone R3 Medium Density Residential			Y	Y	Y
4.3 Height of buildings			Y	Y	Y
5.10 Heritage conservation			Y	Y	Y
6.1 Warriewood Valley Release Area			Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.6 Biodiversity protection			Y	Y	Y
7.7 Geotechnical hazards			Y	Y	Y
7.10 Essential services			Y	Y	Y
Pittwater 21 Development Control Plan 2014					
A1.7 Considerations before consent is granted			Y	Y	Y
A4.16 Warriewood Valley Locality			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.1 Landslip Hazard			Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land			Y	Y	Y
B5.8 Stormwater Management - Water Quality - Low Density Residential			Y	Y	Y
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			Y	Y	Y
B8.5 Construction and			Y	Y	Y

Control	Standard	Proposal	T	O	N
Demolition - Works in the Public Domain					
C1.1 Landscaping			Y	Y	Y
C1.3 View Sharing			Y	Y	Y
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.17 Swimming Pool Safety			Y	Y	Y
D16.1 Character as viewed from a public place			Y	Y	Y
D16.5 Landscaped Area for Newly Created Individual Allotments		See below for discussion.	N	Y	Y
D16.6 Front building lines			Y	Y	Y
D16.7 Side and rear building lines		See below for discussion.	N	Y	Y
D16.9 Solar access			Y	Y	Y
D16.10 Private and Communal Open Space Areas			Y	Y	Y
D16.11 Form of construction including retaining walls, terracing and undercroft areas			Y	Y	Y
D16.13 Building colours and materials			Y	Y	Y
D16.14 Pets and companion animals			Y	Y	Y
State Environmental Planning Policies and other					
EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts			Y	Y	Y

8.0 DISCUSSION OF ISSUES

• D16.5 Landscaped Area for Newly Created Individual Allotments

Proposed = 148.6m² or 36.2% of the total site area.

The application will be unable to comply with the minimum 45% landscaped area requirement for newly created residential lots within the Warriewood Valley Locality. applicant has sought a variation under the DCP (paths <1m in width and 6% open recreation spaces), however within the Warriewood Valley Locality no variations are able to be applied under control D16.5, primarily due to the strict water management requirements of the land release area.

Development application N0481/17 for a new dwelling within the subject site has provided an effective stormwater management system that has been supported by Council's Development Engineers and additionally takes into consideration the prop pool within the design. As the pool itself is entirely in-ground and acts as a detention which overflows into the sewer, the development does not alter the on-site stormwater management system or requirements. Additionally a high quality landscape plan has

been provided which provides a suitable range of shrubs, ground covers and canopy trees which further assist in minimising the impact of the built form.

The applicant was contacted on 20/04/2018 to discuss the potential of increasing the proposed landscaped area. The applicant suggested that the path along the side boundary, along with the entry way could be converted into turf and impervious pave to improve the numerical measurement of the landscaped area. With these areas included within the calculation, the landscaped area has been measured at 170.2m² 41.5%. While still slightly under the 45% requirement, the nature of the development considered to allow for a certain degree of flexibility under the circumstances of this case. As a result the development for the proposed swimming pool is supported on merit with a condition to turf the path along the side boundary and for the entry to be and impervious pavers.

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

Northern Side Setback = 8.5m

Southern Side Setback = 1m

Western Rear Setback = Varies from 800mm to 3m

The application will be unable to comply with the minimum rear setback requirement 4m for front loaded lots greater or equal to 20m deep. However, the subject site adjo a community lot to the rear which will remain undeveloped as part of the finalised subdivision certificate due to the RU2 Rural Landscape Zone. As the pool is entirely below ground, the impact to this lot is minimal. Landscaping is additionally provided within the setback area. This is considered to be acceptable.

9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies a listed at item 3.0.

The proposal has been found to be consistent with the outcomes of the relevant controls P21 DCP. The proposal is considered to be consistent with the existing character of Warriewood and the desired future character of the Warriewood Valley Locality. As a result of these considerations the proposal is recommended for approval.

RECOMMENDATION OF DEVELOPMENT OFFICER/PLANNER

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application N0542/17 for the construction of a swimming pool at 8 Cherry Lane, Warriewood (formerly known at Lot 17, 2 Fern Creek Road) subject to the conditions of consent.

Report prepared by

Nick Armstrong
PLANNER

Date: 24 April 2018

