

01 July 2025



Mark Baxter
8/21 Sydney Road
MANLY NSW 2095

Dear Sir/Madam,

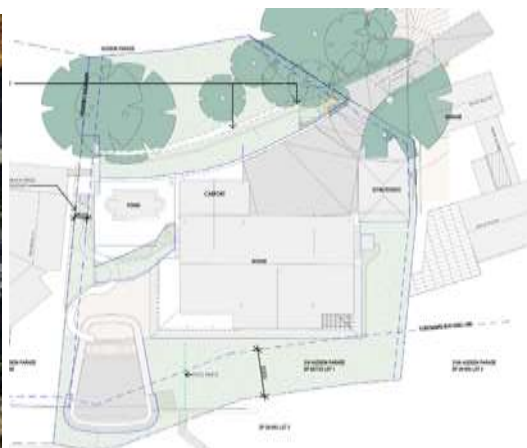
Development Application No: DA2025/0581 for Construction of a swimming pool at 316 Hudson Parade CLAREVILLE.

An assessment has been undertaken of your application. The assessment has found that it is unsatisfactory in its current form for the reasons identified below:

- **Insufficient / inaccurate information**

The following information/documentation is required to complete the assessment of the application:

1. The PAN form includes lot 2 DP827733 as being part of the subject site. Lot 2 is owned by Council and owner's consent has not been submitted from Council. Two separate emails from Baxter and Jacobson architects, dated 14 May and 18 June 2025 have confirmed that all work is within lot 1 and no work is proposed in lot 2. To address this inconsistency please submit a letter to clarify the correct address of the site as lot 1 DP827733.
2. The foreshore building line appears to be incorrectly annotated on the architectural drawings. Council records suggest that the line is set back 6.2m to the north and 6.5m to the south, see screen shot below.



Foreshore Building Line (FBL), faint red line in the aerial image as extracted from Council's data base (SEA programme) compared with the FBL as annotated on the location plan

3. Landscape Plan – It is noted that the architectural plans include planting on the retaining wall to the swimming pool, this is not included in the submitted



Landscape Plan, please refer to comments from Council's Landscape Officer available on Council's website.

- **Issues**

The following is a list of the issues and concerns identified in the assessment that cannot be supported:

1. Zone C4 Environmental Living

The objectives of the C4 zone are:

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

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

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

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

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

The existing swimming pool measures approximately 81.6m², including the coping, it is surrounded by grass and generally sits landward of the foreshore building line. By comparison, the proposed swimming pool, steps, coping and overflow catch area equate to an area of approximately 142.8m², a 41.2m² paved area adjoins the pool to the east and the pool extends up to 5.98m beyond the foreshore building line to the west. Due to the excessive size of the proposed swimming pool and paved areas / loss of landscape open space, and the extent of retaining walling the proposal is not considered to be low density and scale and has the potential to adversely impact on the aesthetic values of the area. The proposal is therefore inconsistent with the objective of the C4 Environmental Living Zone.

2. Clause 7.8 of PLEP - Limited Development on foreshore area

The proposed swimming pool extends beyond the foreshore building line (FBL) and includes pool plant within this area. Plant is not listed as a permissible development in the foreshore area under sub-clause (2) (b). As such, a clause 4.6 variation and determination by the NBLPP will be required. Note: Any retaining walls, not associated with the swimming pool, located within the foreshore, will also trigger a Clause 4.6 variation.

The extension of swimming pool into the foreshore area and the associated retaining stone wall to the pool catchment area and plant storage is inconsistent with the intention of clause 7.8 which allows for "limited development."



The proposed swimming pool is elevated above existing ground levels and presents to the waterway with extensive retaining walling. To satisfy Pittwater LEP clause 7.8 Limited development on foreshore area the following is considered: part (3) *(b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area;* and part (4) *(e) the reinforcing of the foreshore character and respect for existing environmental conditions.*

Due to the scale of the elevated swimming pool and the extensive retaining walling and its projection into the foreshore the proposal is inconsistent with the provisions of Clause 7.8 part 3(b) and part 4(e). It is therefore recommended that the swimming pool is reduced in size and pulled back from the FBL with the relocation of plant landward of the foreshore.

3. A4.3 Bilgola Locality, D3.1 Character as viewed from a public place and Clause D3.15 Scenic Protection Category One Area

The Desired Future Character (DFC) requires the Bilgola locality to *remain primarily a low-density in a landscaped setting, integrated with the landform and landscape.*

The Pittwater Foreshore Area requires: *Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance.*

The proposal reduces the amount of landscape open space and increases the amount of site disturbance / excavation in the foreshore. In addition, the proposal includes the construction of a 2.3m high retaining wall to the overflow catch and pool pump area that are located within the foreshore. The swimming pool and associated structures do not integrate with the landform and landscape and the proposal is inconsistent with the DFC of the locality.

Due to the scale of the elevated swimming pool and associated walling and its projection into the foreshore area the proposal fails to achieve the following outcomes of Clause D3.1 Character as viewed from a public place and the outcomes of Clause D3.15 Scenic Protection Category One Area.

Clause D3.1 Character as viewed from a public place

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

-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.

Clause D3.15 Scenic Protection Category One Area

-To maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component.



-Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve.

D3.11 Landscape Open Space (LOS)

The control requires 60% LOS (1141m²) the existing site is non-compliant with the control. Using the survey Council calculates that the site currently provides a LOS of 906.6m² (47.66%), 1020.72m² (53.66%) when allowing for a 6% variation of 114.12m² for impervious areas. Note: the applicants LOS calculations do not include the existing turfed area around the swimming pool.

The proposal retains 748m² (39.32%), 862.12m² (45.32%) when including the 6% variation calculated using the submitted landscape plan. The proposal results in a 158.6m² loss of LOS to an already non-compliant site. Council will not support any additional loss of LOS compared to the existing and it is therefore recommended that the swimming pool and paved areas are reduces in scale.

It is noted that the applicant includes lot 2 in the LOS calculations. As above, owner's consent has not been submitted from Council to include this lot in the development site, as such, lot 2 cannot be counted as LOS.

- **Other**

Aboriginal Heritage Officer (AHO) – please note that the referral comments from the AHO are outstanding. Should any issues be raised in this late referral I will advise you as a priority.

- **Objector's concerns**

One submission was received which sought clarification on whether the proposed swimming pool extends beyond lot 1 into reserve. As above, you are required to re-submit the application to exclude lot 2 from the application site.

Submissions that are available online in accordance with the Northern Beaches Community Participation Plan can be viewed on Council's website at the following link, using the application number as a reference:

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Public/XC.Track/SearchApplication.aspx>

Options available to the Applicant

Council is providing you with two (2) options to progress your application:

1. Prepare and submit further supporting information/amendments to address the above issues. Please carefully read the below advice if you choose this option.
2. Request that the current proposal proceed to determination in its current form, which may result in refusal of the application.



Please advise of your selected option by responding **within 7 days of the date of this letter** by email sent to council@northernbeaches.nsw.gov.au marked to the attention of the assessment officer. Should Council not receive your response by this date, Council will determine the application in its current form.

Submitting further information/amendments

Council will offer one opportunity to provide feedback on conceptual amendments addressing the issues raised in this letter. We strongly request that you contact the assessment officer directly for a 'without prejudice' discussion on your proposed resolution of the issues and the submission requirements before lodging any documentation on the NSW Planning Portal.

Conceptual amendments must be provided to Council for feedback **within 14 days of the date of this letter**. If conceptual amendments are deemed sufficient, we will then provide you with a timeframe upon which an amended application is to be lodged on the NSW Planning Portal (generally 14 days).

Please ensure that the amended/additional information submitted on the NSW Planning Portal is a genuine attempt to resolve the issues as Council will generally not seek any further information/amendments after that point. Council will proceed to assess and determine the application based on the submitted information without further consultation. Whilst we will provide feedback on your conceptual amendments in good faith, this cannot guarantee the approval of the amended application.

As part of any amended application, it may be necessary to update your supporting documentation (e.g., BASIX certificate, bushfire report, geotechnical report, etc.). Failure to do so may affect Council's ability to determine the application favourably.

Please ensure that any amendments are accompanied by a summary/schedule of amendments cover sheet.

Council reserves its right under section 37 of the *Environmental Planning and Assessment Regulations 2021* not to accept any information/amendment if it is not considered to be a genuine attempt to resolve the issues. In which case, Council will inform you that the changes have not been accepted and the application will proceed to be determined.

This process has been established to ensure an efficient and responsible level of service which meets the requirements of the Department of Planning and Environment's *23A Guidelines on withdrawal of Development Applications 2023*, Ministerial Orders *Statement of Expectations 2021* and the *Development Assessment Best Practice Guide 2017*.

As per the requirements of section 36 of the *Environmental Planning and Assessment Regulation 2021*, you are advised that this application was accepted on 5 June 2025 and 26 days in the assessment period have now elapsed.



This letter will be released on Council's webpage as part of the application's documentation. Should you wish to discuss any issues raised in this letter, please contact Anne-Marie Young on 1300 434 434 during business hours Monday to Friday.

Yours faithfully

Anne-Marie Young

A handwritten signature in blue ink, appearing to read 'A. Young'.

Principal Planner