

Wollongong Local Planning Panel Assessment Report | 2 July 2020

WLPP No.	Item No. 1
DA No.	DA-2020/273
Proposal	Residential - Swimming pool
Property	77 Excelsior Drive, AUSTINMER NSW 2515 Lot 27 DP 270554
Applicant	Narellan Pools Illawarra
Responsible Team	Development Assessment & Certification – City Wide Planning Team (JS and EM)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel

The proposal has been referred to Local Planning Panel **for determination** pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 Clause 4 (a) of the Local Planning Panels Direction of 1 March 2018, the proposal is Designated Development.

The pool is located within the mapped Littoral Rainforest Area pursuant to the SEPP (Coastal Management) 2018.

Proposal

The proposal is for the construction of a swimming pool.

Permissibility

The site is zoned E3 Environmental Management pursuant to the Wollongong Local Environment Plan 2009. The proposal is categorised as a swimming pool and is permissible with development consent in the E3 zone, as ancillary development to the existing dwelling house.

Consultation

The proposal was notified in accordance with Council's Notification Policy and did not receive any submissions.

The proposal was referred to Councils Geotechnical, Environment and Stormwater Officers and conditionally satisfactory referral advice has been provided in each instance. The proposal was also referred to Endeavour Energy pursuant to the provisions of SEPP (Infrastructure) 2007 due to the proximity of overhead powerlines. Endeavour have advised no objections to the proposed development subject to conditions.

Conclusion

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of the SEPP (Coastal Management) 2018, Wollongong Local Environmental Plan 2009, and all relevant Council DCPs, Codes and Policies and found to be satisfactory.

The proposed swimming pool is permissible with consent as ancillary development to the dwelling house and would not be considered inconsistent with the objectives of the E3 zone.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development. Despite being located within a mapped Littoral Rainforest area, the location of the pool is a large grassed area. No trees are required to be removed to allow for the proposed development.

RECOMMENDATION

It is recommended that approval be granted to DA-2020/273, subject to the conditions provided at Attachment 5.

1.1 DETAILED DESCRIPTION OF PROPOSAL

The development application proposes the construction of a 9m fibreglass, in-ground swimming pool. The swimming pool has depths of 1.2m to 1.8m and a capacity of 37,000 litres.

In detail, the proposal would involve the following works:

- Excavation of approximately 29 cubic metres of soil;
- Installation of pad or strip footings founded in weathered bedrock in accordance with Geotechnical recommendations;
- Laying of a sand bed;
- Installation of fibreglass frame;
- Backfilling with sand and cement;
- Installation of plumbing and drainage infrastructure;
- Pouring of a concrete bond beam;
- Installation of a cartridge filtration system;
- Installation of pool fencing; and
- Paving around the pool area.

The proposal is required to be considered as designated development pursuant to section 4.10 of the Environmental Planning and Assessment Act 1979 as clause 10 of the State Environmental Planning Policy (Coastal Management) 2018 requires that any development within the mapped Littoral Rainforest Area which is not for the purpose of environmental protection works is declared to be designated development for the purpose of the Act. The proposed pool is partially within the mapped Littoral Rainforest Area pursuant to the SEPP.

1.2 BACKGROUND

The subject site is located within Middle Heights Estate which is accessed off Buttenshaw Drive. The site was created via DA-1998/755 which approved 29 residential lots and one community title lot in a Community Title Subdivision arrangement on 15 March 2001. Construction certificates and subdivision certificates in relation to this approval were lodged and granted over a number of stages. The final DP as the site exists today was registered on 10 October 2016.

A review of available aerial imagery indicates that a dwelling has existed on the site since prior to 1948/51. DA-2003/1991 approved alterations and additions to the dwelling house, resulting in the built form on site today.

No pre-lodgement meeting was held for the proposal.

Customer service actions

There are no outstanding customer service requests of relevance to the development at the time of preparing this report.

1.3 SITE DESCRIPTION

The site is located at 77 Excelsior Drive Austinmer and the title reference is Lot 27 DP 270554. The site is currently comprised of a split-level dwelling house and shed. The site is irregular in shape with an overall site area of 2845 m².

Adjoining developments are single dwellings and the locality is characterised by an existing dwelling house to the north, the south coast railway line and residential areas of Coedale to the east, other dwellings part of Middle Heights Estate to the south and part of the Middle Heights Estate community lot and the Illawarra Escarpment to the West.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Unstable land
- Uncategorised flood risk precinct.
- Bushfire affected.
- Coastal Use Area

A small area at the front of the site is affected by an easement for powerlines, variable width. The proposed swimming pool is located approximately 10m from the easement area. The site benefits from and gains access via a right of access over Lot 1.



Figure 1: Aerial photograph

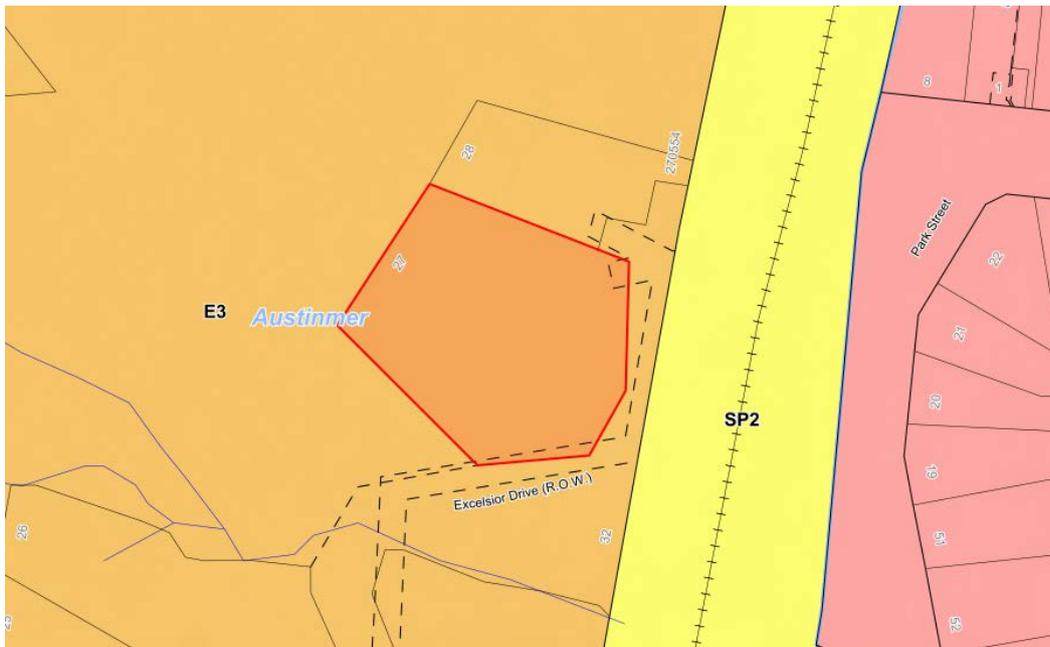


Figure 2: WLEP 2009 zoning map

1.4 SUBMISSIONS

The application was notified between the 24 April and 29 May 2020 in accordance with Council's Community Participation Plan 2019 and the public exhibition requirements of the Environmental Planning and Assessment Regulations 2000 for designated development. This included a notice in The Advertiser and the installation of a sign at the site. No submissions were received following the notification period.

The Planning Secretary has been advised that no submissions were received.

1.5 CONSULTATION

1.5.1 INTERNAL CONSULTATION

Geotechnical Engineer

Council's Geotechnical Officer has reviewed the application and initially requested additional information with regard to the geotechnical report and proposed pool design. An amended Geotechnical Report with additional sampling has been provided and reviewed by Council's Geotechnical Engineer. Conditions of consent have been recommended and are included at Attachment 5.

Stormwater Engineer

Council's Stormwater Officer has reviewed the application and provided a satisfactory referral. Conditions of consent have been recommended and are included at Attachment 5.

Environment Officer

Council's Environment Officer has reviewed the application and initially sought additional information regarding how backwash from the pool would be managed, as the site is not connected to a sewer. Additional information and details of a proposed cartridge system have been provided. Conditions of consent have been recommended and are included at Attachment 5.

1.5.2 EXTERNAL CONSULTATION

Department of Planning

In accordance with Section 4.10 of the EP&A Act 1979, the applicant obtained SEARs which outlined the matters that must be included in any EIS. It is considered the application has been prepared in accordance with these requirements and was referred to the Department following lodgement for public exhibition in accordance with Clause 50(6) of the EP&A Regulation 2000. At the conclusion of the exhibition period no submissions were received, and the Department was notified of this outcome as required by Section 81 of the EP&A Regulation 2000. No further comments were received.

Endeavour Energy

Endeavour Energy were referred the proposal due to the proximity of the proposed swimming pool to an Endeavour Energy easement, pursuant to SEPP (Infrastructure) 2007. See further discussion at SEPP (Infrastructure) 2007 below. Endeavour has advised no objections to the proposed works, subject to conditions. These conditions are included as part of Attachment 6

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DESIGNATED DEVELOPMENT

Section 4.10 of the EP&A Act 1979 states that Designated Development is development that is declared to be Designated Development by an environmental planning instrument or the regulations. Clause 10 of the State Environmental Planning Policy (Coastal Management) 2018 identifies that any development within the mapped littoral rainforest area is designated development. The subject works are within the mapped Littoral Rainforest area, pursuant to the SEPP.

Pursuant to section 4.12 of the EP&A Act 1979, the application was accompanied by an environmental impact statement. The statement was prepared in accordance with Schedule 2 of the EP&A Regulations 2000. It is noted that pursuant to Part 2 of Schedule 2, the applicant made written application to the Planning Secretary for the environmental assessment requirements with respect to the statement. A delegate of the Planning Secretary responded on 19 March 2020 providing the Planning Secretaries Environmental Assessment Requirements (SEARs). The SEARs advised that the Department had reviewed the documentation submitted and confirmed that it had no specific requirements, other than addressing the provisions of the SEPP (Coastal Management) 2018 and ensuring that the Environmental Impact Statement (EIS) met the minimum form and content requirements outlined in the EP&A Regulations 2000. A copy of this correspondence is provided at Attachment 2. Generally, the EIS has been prepared in accordance with the minimum form and content requirements as outlined in the EP&A Regulations 2000. The EIS is provided at Attachment 3. The Department were notified of the lodgement and provided with a copy of the submitted EIS following lodgement of the designated development application in accordance with Clause 50(6) of the EP&A Regulation 2000

Section 4.13 of the Act sets out notification requirements for designated development which have been followed in assessment of the subject application.

Section 81 of the Regulation requires that the consent authority must, immediately after the relevant submission period, forward to the Director-General a copy of all submissions received in response to the public exhibition of a development application for designated development. In this instance no submissions were received, and no further comments provided by the Department to Councils notification. The Department have been advised that no submissions were received.

NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.25 hectares based upon the minimum lot size of the WLEP 2009 R2 zoned land (i.e. less than 1 hectare minimum lot size).

No native vegetation is proposed to be cleared for the development.

Part of the area where the proposed pool will be located is included on the NSW Biodiversity Values Map (the same area as Littoral Rainforest mapped under State Environmental Planning Policy (Coastal Management) 2018). See Figure 3 below. The proposal would not involve the clearing of native vegetation, or other action prescribed by clause 6.1 of the *Biodiversity Conservation Regulation 2017*.

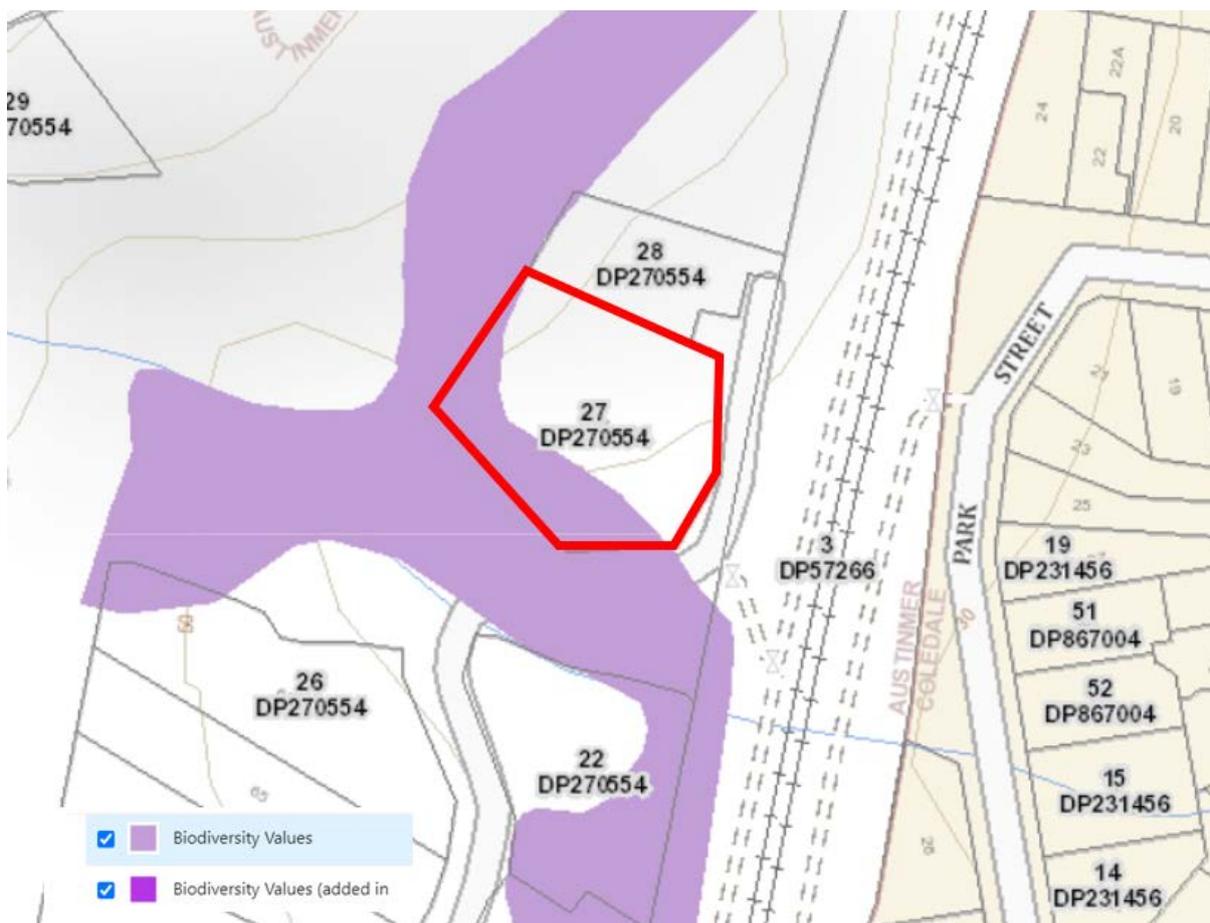


Figure 3: Extract from the Biodiversity Values Map

No threatened species or endangered ecological communities will be significantly affected by the proposal.

Entry into the NSW Biodiversity Offsets Scheme has not been triggered. A Biodiversity Development Assessment Report by an accredited assessor is not required.

Council's Environmental Assessment Officer has considered whether the development site would potentially provide suitable habitat for any threatened species and has concluded that the proposed development is not expected to likely significantly affect threatened species or ecological communities, or their habitats. The development proposed would not be considered a key threatened process and entry into the Biodiversity Offsets Scheme has not been triggered.

The development would therefore not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless—
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A desktop audit of the subject site revealed there is no previous history of land uses that could be considered to present as a contamination risk. The earthworks are considered minor, reflective of normal residential construction and the proposal does not comprise a change of use. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

The site is therefore considered suitable for the proposed development and consistent with the assessment considerations of SEPP 55.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

The subject site is located within the overlapping Littoral Rainforest and Littoral Rainforest buffer area, and Coastal Use Area pursuant to the SEPP (Coastal Management) 2018 Maps. See Figure 4 below.



Figure 4: Extract from the SEPP (Coastal Management) 2018 Maps

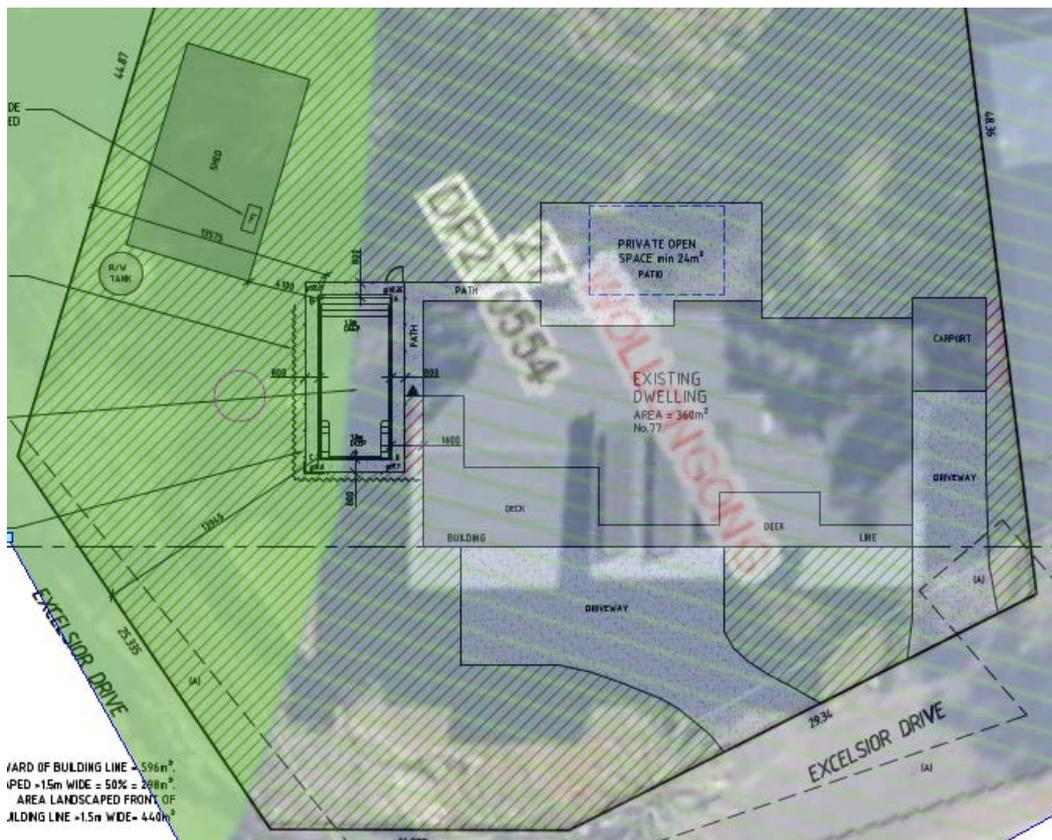


Figure 5: Overlay of the proposed works and the littoral rainforest and proximity area mapping
 An assessment against the relevant provisions of this SEPP is provided below.

SEPP (Coastal Management) 2018 clause	Council Comment
Part 1 Preliminary	
3 Aim of Policy	The proposal is considered consistent with the aims of the Policy.
5 Land to which this Policy applies	The subject site is located within the Coastal Zone, and therefore this Policy applies.
6 Identification of coastal management areas	The subject site is located within the overlapping Littoral Rainforest and Littoral Rainforest buffer area, and Coastal Use Area as demonstrated by Figure 4 above.
7 Relationship with other environmental planning instruments	It is noted that this Policy prevails to the extent of any inconsistency with another EPI.
Part 2 Development control for coastal management areas	
Division 1 Coastal wetlands and littoral rainforest areas	
10 Development on certain land within coastal wetlands and littoral rainforests area (1) The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> only with development consent—	

<p>(a) the clearing of native vegetation within the meaning of Part 5A of the <i>Local Land Services Act 2013</i>,</p> <p>(b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the <i>Fisheries Management Act 1994</i>,</p> <p>(c) the carrying out of any of the following—</p> <ul style="list-style-type: none"> (i) earthworks (including the depositing of material on land), (ii) constructing a levee, (iii) draining the land, (iv) environmental protection works, <p>(d) any other development.</p>	<p>The subject development would be considered ‘any other development’ pursuant to part (d) of this clause.</p> <p>The proposed pool is located partially within the littoral rainforest area and partially within the littoral rainforest proximity area. The extent of the encroachment of the development on the mapped areas is demonstrated by Figure 5 above.</p>
<p>(2) Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.</p>	<p>The proposed works would not be considered environmental protection works, and therefore the subject application has been considered as designated development as discussed throughout this report.</p>
<p>(3) Despite subclause (1), development for the purpose of environmental protection works on land identified as “coastal wetlands” or “littoral rainforest” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> may be carried out by or on behalf of a public authority without development consent if the development is identified in—</p> <ul style="list-style-type: none"> (a) the relevant certified coastal management program, or (b) a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i>, or (c) a plan of management under Division 3.6 of the <i>Crown Land Management Act 2016</i>. 	<p>The proposed works are not to be carried out by or on behalf of a public authority and do not relate to works identified within a certified coastal management program or plan of management.</p>
<p>(4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest</p>	<p>Despite the works being partially within the mapped littoral rainforest area, a site inspection and review by Councils Environment Officer indicates that the mapping is incorrect and does not align with any littoral rainforest area, currently an open lawn area.</p> <p>As such, no works are proposed to enhance the littoral rainforest area, as it does not exist on the site at present.</p> <p>The proposal has been designed to not result in any potential environmental impacts on surrounding areas. Conditions have been</p>

	recommended by Councils Environment Officer in this regard.
(5) Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the <i>Biosecurity Act 2015</i> .	Noted.
(6) This clause does not apply to the carrying out of development on land reserved under the <i>National Parks and Wildlife Act 1974</i> if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.	Noted.
11 Development on land in proximity to coastal wetlands or littoral rainforest	
(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> unless the consent authority is satisfied that the proposed development will not significantly impact on— (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.	<p>The proposed pool is located partially within the littoral rainforest area and partially within the littoral rainforest proximity area. The extent of the encroachment of the development on the mapped areas is demonstrated by Figure 5 above.</p> <p>The proposed works would not be considered to result in any significant impacts on the biophysical, hydrological or ecological integrity of any littoral rainforest or the quality or quantity of ground or surface water flows in the area.</p>
(2) This clause does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> .	Noted.
Division 4 Coastal use area	
14 Development on land within the coastal use area	
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority— (a) has considered whether the proposed development is likely to cause an adverse impact on the following— (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	<p>The subject site is located within the overlapping Littoral Rainforest and Littoral Rainforest buffer area, and Coastal Use Area as demonstrated by Figure 4 above.</p> <p>The development is not expected to result in adverse impacts on foreshore, beach, headland or rock platform access, changes in solar access or wind activity, the visual amenity or scenic</p>

<p>(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,</p> <p>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</p> <p>(iv) Aboriginal cultural heritage, practices and places,</p> <p>(v) cultural and built environment heritage, and</p> <p>(b) is satisfied that—</p> <p>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</p> <p>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</p> <p>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</p>	<p>qualities of the coast, aboriginal cultural heritage or cultural or built heritage.</p> <p>The development is considered to have been sited to manage adverse impacts on the coastal area.</p> <p>The surrounding coastal and built environment, bulk, scale and size of the proposed development have been considered and are appropriate in the subject location.</p>
<p>(2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i>.</p>	<p>Noted.</p>
<p>Division 5 General</p>	
<p>15 Development in coastal zone generally—development not to increase risk of coastal hazards</p> <p>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.</p>	<p>The development is not considered likely to result in increased risks of coastal hazards on the subject land or any other land.</p>
<p>16 Development in coastal zone generally—coastal management programs to be considered</p> <p>Development consent must not be granted to development on land within the coastal zone</p>	<p>No certified coastal management program applies to the subject lot.</p>

<p>unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.</p>	
<p>18 Hierarchy of development controls if overlapping</p> <p>If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency—</p> <p>(a) the coastal wetlands and littoral rainforests area,</p> <p>(b) the coastal vulnerability area,</p> <p>(c) the coastal environment area,</p> <p>(d) the coastal use area.</p>	<p>Noted.</p>

Councils Environment Officer has reviewed the application with regard to potential impacts on the coastal environment and has provided a conditionally satisfactory referral response.

The proposal is therefore not considered to be inconsistent with the provisions of this SEPP, and has been considered as designated development as required via clause 10.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

<p>Division 5 Electricity transmission or distribution</p>	
<p>Subdivision 2 Development likely to affect an electricity transmission or distribution network</p>	
<p>(1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—</p> <p>(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,</p> <p>(b) development carried out—</p> <p>(i) within or immediately adjacent to an easement for electricity purposes</p>	<p>Overhead power lines are located within the Right of way area which adjoins the subject site. The closes electricity distribution pole/tower is located on the opposite side of the pavement area, approximately 10m from the closest boundary with the subject site. The proposed excavation works are 13.945m from the closest property boundary, and therefore more than 10m from the electricity pole.</p>

<p>(whether or not the electricity infrastructure exists), or</p> <p>(ii) immediately adjacent to an electricity substation, or</p> <p>(iii) within 5m of an exposed overhead electricity power line,</p> <p>(c) installation of a swimming pool any part of which is—</p> <p>(i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or</p> <p>(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,</p> <p>(d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.</p>	<p>No works are proposed within the electricity easement area.</p> <p>There is no substation in the vicinity of the proposed development.</p> <p>The proposed works are setback 13.945m from the closest property boundary, and therefore more than 10m from the electricity pole.</p> <p>The proposal involves the installation of a swimming pool, approximately 25m from two electricity poles located within the driveway area of the Community Title Lot. As such, this clause applies to the proposed development.</p> <p>The proposal does not involve the placement of power lines underground.</p>
<p>(2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must—</p> <p>(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and</p> <p>(b) take into consideration any response to the notice that is received within 21 days after the notice is given.</p>	<p>Endeavour Energy as the electricity supply authority for the area were notified of the proposed development.</p> <p>A response was provided on 17 June 2020 advising no objections to the proposed swimming pool installation, subject to conditions. These conditions have been included as part of Attachment 5 to this report.</p>

Division 15 Railways

Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors – notification and other requirements

85 Development adjacent to rail corridors

- (1) This clause applies to development on land that is in or adjacent to a rail corridor, if the development—
- (a) is likely to have an adverse effect on rail safety, or
 - (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or
 - (c) involves the use of a crane in air space above any rail corridor, or
 - (d) is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.
- (2) Before determining a development application for development to which this clause applies, the consent authority must—
- (a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and
 - (b) take into consideration—
 - (i) any response to the notice that is received within 21 days after the notice is given, and
 - (ii) any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.
- (3) Land is adjacent to a rail corridor for the purpose of this clause even if it is separated from the rail corridor by a road or road related area within the meaning of the *Road Transport Act 2013*.

The subject site is located to the west of the South Coast Railway Line, separated by the existing right of way area/Excelsior Drive road area.

The development would not be considered to result in adverse impacts on rail safety, any metal finishes on a structure, the use of a crane in airspace above the rail corridor or works within 5m of an exposed overhead powerline that is used for the purpose of railways or rail infrastructure facilities.

As such, this clause would not apply to the proposed development.

86 Excavation in, above, below or adjacent to rail corridors

- (1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land—

<p>(a) within, below or above a rail corridor, or</p> <p>(b) within 25m (measured horizontally) of a rail corridor, or</p> <p>(b1) within 25m (measured horizontally) of the ground directly below a rail corridor, or</p> <p>(c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.</p> <p>(2) Before determining a development application for development to which this clause applies, the consent authority must—</p> <p>(a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and</p> <p>(b) take into consideration—</p> <p>(i) any response to the notice that is received within 21 days after the notice is given, and</p> <p>(ii) any guidelines issued by the Secretary for the purposes of this clause and published in the Gazette.</p>	<p>The proposed pool is a maximum of 1.8m in depth, however would be expected to require excavations in addition to that to allow for the laying of the sand bed and the footings recommended by the Geotechnical consultant. Notwithstanding, the subject works are setback more than 35m from the boundary of the rail corridor land.</p> <p>As such, this clause would not apply to the proposed development.</p> <p>It is noted that the Planning Property Division of the NSW Rail Corporation were notified of the development as an adjoining land holder. No response was received.</p>
<p>87 Impact of rail noise or vibration on non-rail development</p> <p>(1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration—</p> <p>(a) residential accommodation,</p> <p>(b) a place of public worship,</p> <p>(c) a hospital,</p> <p>(d) an educational establishment or centre-based child care facility.</p>	<p>The proposal is not for the purpose of any use outlined at parts (a)-(d) and would not be expected to be adversely affected by rail noise or vibration.</p> <p>As such, this clause would not apply to the proposed development.</p>

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2004

The proposal would not meet the definition of BASIX affected development pursuant to the Environmental Planning and Assessment Regulations 2000 as the development is for the purpose of a swimming pool that services only one dwelling and has a capacity of less than 40,000 litres.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT) 2019

The subject site is identified as a site investigation area for Koala Plans of Management. It is however noted that the site is not mapped on the Koala Development Application Map and has an area of less than 1ha and therefore Clause 9 of the Policy would not apply to the development. Notwithstanding, no tree removal is proposed.

2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

dwelling house means a building containing only one dwelling.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

swimming pool has the same meaning as in the *Swimming Pools Act 1992*.

Note.

The term is defined as follows—

swimming pool means an excavation, structure or vessel—

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,
and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of that Act.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned E3 Environmental Management.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

The proposal is satisfactory with regard to the above objectives. It is considered that the proposed swimming pool will have minimal impact on the special ecological, scientific, cultural or aesthetic values of the area.

The land use table below permits the following uses in the zone:

ZONE E3 Environmental Management permitted uses:

Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dwelling houses; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Farm stay accommodation; Forestry; Home-based child care; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Secondary dwellings; Tank-based aquaculture.

Dwelling houses are permissible use in the E3 Zone. The proposed swimming pool is ancillary to the existing residential use of the site.

Part 4 Principal development standards

Clause 4.4 Floor space ratio

There is no identified maximum FSR for the subject site. The proposal does not comprise any additional gross floor area.

Part 5 Miscellaneous provisions

Clause 5.11 Bush fire hazard reduction

The subject site is bushfire affected. Any hazard reduction works would be required to be carried out pursuant to the Rural Fires Act 1997.

Part 7 Local provisions – general

Clause 7.2 Natural resource sensitivity – biodiversity

Council records indicate the site is affected by “Natural Resource Sensitivity – Biodiversity”. The application was referred to Council’s Environment Division to assess likely impacts of the proposal in this regard. No objection was raised and appropriate conditions of consent have been recommended.

Much of the area of the location of the proposed swimming pool is mapped as Natural Resource Sensitivity–Biodiversity. In reality, the location of the proposed swimming pool has been cleared of native vegetation. No impacts on native vegetation in the mapped area of Natural Resource Sensitivity–Biodiversity are expected as a result of the development.

Clause 7.3 Flood planning area

The site is identified as being located in an uncategorised flood risk precinct. Council’s Stormwater Engineer has assessed the application in this regard and has not raised any objections to the work subject to appropriate conditions of consent.

Clause 7.5 Acid Sulfate Soils

The subject lot has been mapped as containing Class 5 Acid Sulfate Soils. The subject lot is not located within 500 metres of any adjacent Class 1, 2, 3 or 4 land and would not be expected to result in adverse impacts on the watertable.

Clause 7.6 Earthworks

The proposed earthworks are not expected to have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features surrounding land. Council’s Geotechnical and Stormwater Officers have considered the application and provided recommended conditions.

Clause 7.8 Illawarra Escarpment area conservation

The site is located within the Illawarra Escarpment Area. The application was accordingly referred to Council’s Environment Officer for comment. The proposed swimming pool is located within an existing cleared area and would not be expected to cause any adverse impact on the natural features and environment of the Illawarra Escarpment. The proposal would not be considered inconsistent with the requirements of this clause, being located so as to minimise adverse impacts on the natural features and environment of the Escarpment and including measures to enhance the escarpment area.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.6 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant Chapters of WDCP 2009. Compliance tables are provided at **Attachment 4** which does not identify any particular issue.

2.3.7 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

The estimated cost of works is \$52,775 and a levy is not applicable under this plan as the threshold value is \$100,000

2.4 SECTION 4.15(1)(A)(IIIA) 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

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

Not applicable.

93 Fire safety and other considerations

Not applicable.

94 Consent authority may require buildings to be upgraded

Not applicable

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality.

This is demonstrated through the following:

- The proposal is satisfactory with regard to the applicable planning controls as detailed in the body of this report.
- No submissions were received following notification
- Internal and external referrals are satisfactory subject to appropriate conditions of consent

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

See section 1.5 above. No submissions were received.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is not expected to result in unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3. CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

The proposed swimming pool is permissible with consent as ancillary development to the existing dwelling house, pursuant to the WLEP 2009.

The development is consistent with the applicable provisions of the relevant planning instruments including SEPP (Coastal Management 2018), Wollongong LEP 2009 and WDCP 2009.

All internal and external referrals are satisfactory and there are no outstanding issues.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development

4. RECOMMENDATION

DA-2020/273 be approved pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the conditions provided at **Attachment 5**.

5. ATTACHMENTS

- 1 Plans
- 2 Planning Secretaries Environmental Assessment Requirements (SEARs)
- 3 Environmental Impact Statement (EIS)
- 4 Wollongong Development Control Plan 2009 Assessment
- 5 Conditions

LANDSCAPE CALCULATION - GENERAL CODE USED

SITE AREA = 2845m²
 DWELLING = 360m²
 OTHER AREAS (deck, driveway, patio, shed etc.) = 418m²
 PROPOSED POOL AREA (incl. coping) = 39m²
 TOTAL SITE B.U.A. = 817m²
 SOFT LANDSCAPED ON ENTIRE LOT = 2028m²

FOR CDC COMPLIANCE
 AS SITE AREA IS 2845m² - 1280m² (45%) TO BE SOFT LANDSCAPED.
 TOTAL OF SOFT LANDSCAPED AREAS 1.5m WIDE OR GREATER ON SITE = 2016m²

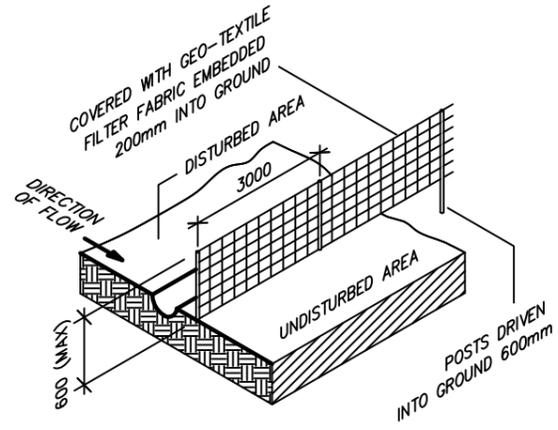
LOT WIDTH 18m PLUS 50% L/SCAPE FORWARD OF BUILDING LINE
 LOT WIDTH 18m & UNDER 25% L/SCAPE FORWARD OF BUILDING LINE
 MINIMUM OF 50% OF LANDSCAPING TO BE LOCATED BEHIND BUILDING LINE
 PRIVATE OPEN SPACE AREA REQUIRED FOR SITE >300m² = 24m²

REQUIRED L/SCAPE AT REAR >1.5m WIDE = 640m²(50%)
 LANDSCAPE AREA AT REAR >1.5m WIDE = 1576m²

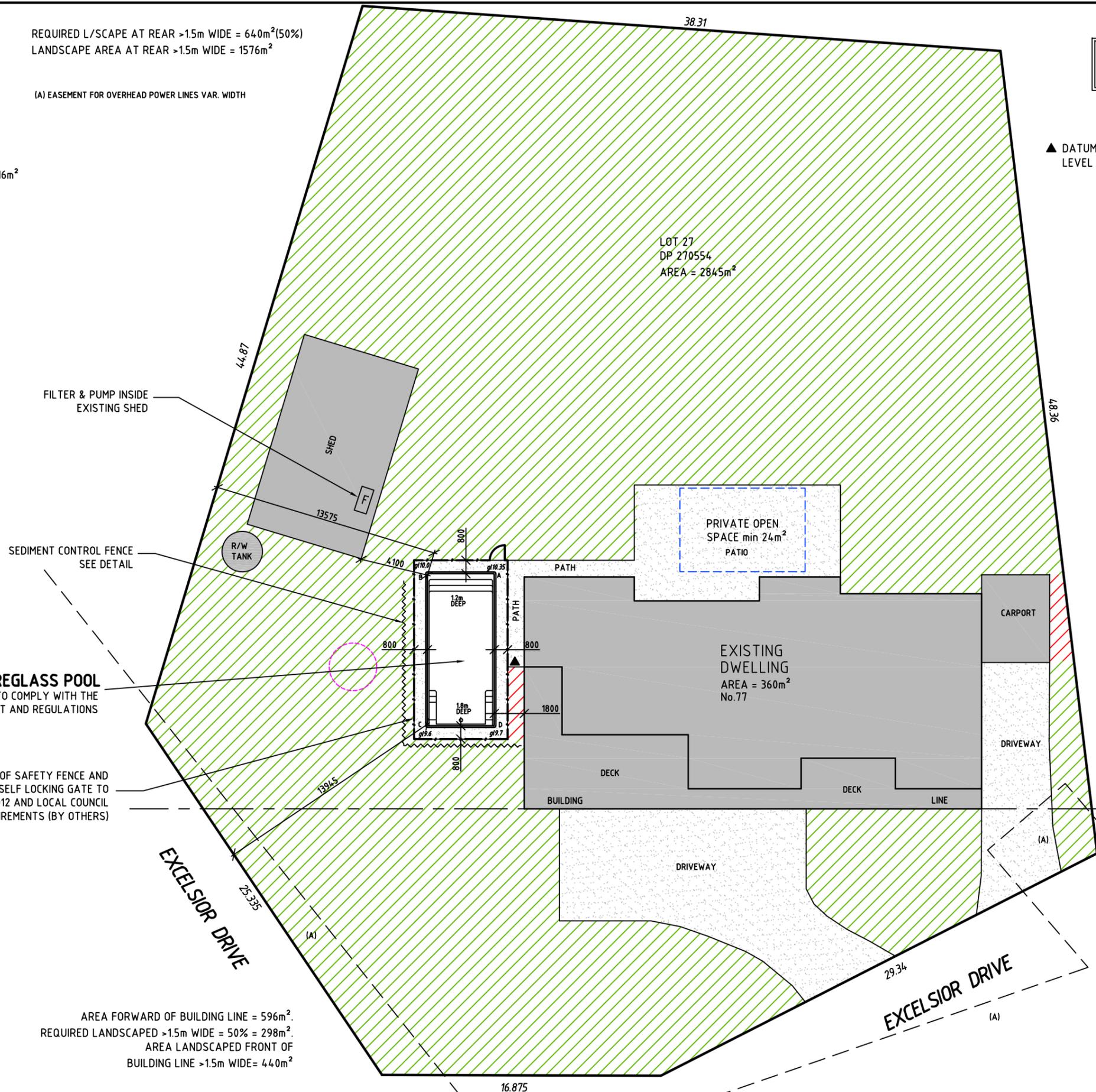
(A) EASEMENT FOR OVERHEAD POWER LINES VAR. WIDTH

ALL FENCES TO COMPLY WITH TO AS1926.1-2012 AND THE SWIMMING POOL ACT AND LOCAL COUNCIL REQUIREMENTS

▲ DATUM - TOP OF PATH. TOP OF POOL TO BE LEVEL WITH THE DATUM AT 10.0 (ASSUMED)



SEDIMENT FENCE DETAIL
 NOT TO SCALE



PROPOSED FIBREGLOSS POOL
 THE PROPOSED POOL TO COMPLY WITH THE SWIMMING POOL ACT AND REGULATIONS

1200 HIGH CHILD PROOF SAFETY FENCE AND SELF CLOSING, SELF LOCKING GATE TO AS1926.1-2012 AND LOCAL COUNCIL REQUIREMENTS (BY OTHERS)

- LEGEND:**
- DENOTES SOFT LANDSCAPE 1.5m WIDE & GREATER
 - DENOTES SOFT LANDSCAPE LESS THAN 1.5m WIDE
 - DENOTES HARDSTAND (CONCRETE, GRAVEL, PAVERS ETC.)
 - DENOTES BUILDING STRUCTURES

AREA FORWARD OF BUILDING LINE = 596m²
 REQUIRED LANDSCAPED >1.5m WIDE = 50% = 298m²
 AREA LANDSCAPED FRONT OF BUILDING LINE >1.5m WIDE = 440m²

DESIGNATED AREA FOR WASTE & MATERIAL STOCKPILE. EXCESS WASTE TO BE REMOVED FROM SITE



NARELLAN POOLS SOUTH COAST
 P.O. Box 665 Dapto NSW 2530
 License # 104710c

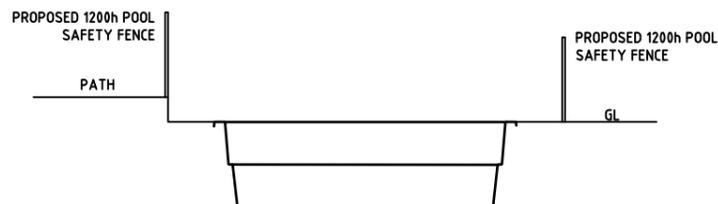
Pool: **GRANDEUR 9m**
 Volume: **37,000 LTRS**
 THE PROPOSED POOL TO COMPLY WITH THE SWIMMING POOL ACT AND REGULATIONS.

CUSTOMER / ADDRESS
SHANE HUMPHRIES
77 EXCELSIOR DRIVE
AUSTIMER NSW

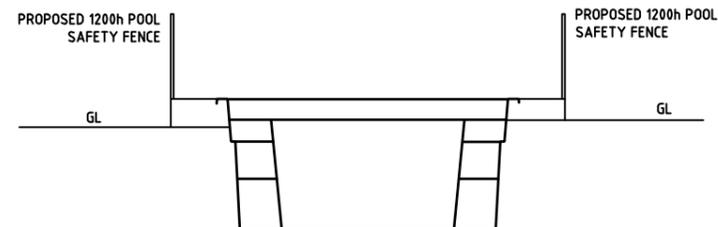
ISSUE	DATE	REVISION
A	14/11/19	INITIAL ISSUE

SHEET
1 of 2

SITE PLAN
 SCALE 1:250@A3



NORTHWEST-ELEVATION
SCALE 1 : 100@A3



SOUTHEAST-ELEVATION
SCALE 1 : 100@A3



SOUTHWEST-ELEVATION
SCALE 1 : 100@A3



NORTHEAST-ELEVATION
SCALE 1 : 100@A3

SITE LEVELS
TOP OF POOL COPING LEVEL +/-
FROM EXISTING GROUND LEVEL.
A: -350
B: 00
C: +400
D: +300

 DESIGNATED AREA FOR WASTE & MATERIAL STOCKPILE. EXCESS WASTE TO BE REMOVED FROM SITE



NARELLAN POOLS SOUTH COAST
P.O. Box 665 Dapto NSW 2530
License # 104710c

Pool: **GRANDEUR 9m**
Volume: **37,000 LTRS**

THE PROPOSED POOL TO COMPLY WITH THE SWIMMING POOL ACT AND REGULATIONS.

CUSTOMER / ADDRESS

SHANE HUMPHRIES
77 EXCELSIOR DRIVE
AUSTIMER NSW

ISSUE	DATE	REVISION
A	14/11/19	INITIAL ISSUE



19 March 2020

Mr. Alex Kelly
Director and Principal
Foundation Law Group Pty Ltd
Suite 203
62 Moore Street
AUSTINMER NSW 2515

SEAR 1445

Dear Mr Kelly,

**Construction in a Littoral Rainforest Area
77 Excelsior Street, Austinmer (Lot 27 DP270554) – Wollongong LGA
Planning Secretary's Environmental Assessment Requirements (SEAR) 1445**

I refer to your email of 9 March 2020, seeking the Planning Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the above development proposal. I note your proposal would seek development consent for the construction of a swimming pool.

The Department of Planning and Environment (the Department) has reviewed the documentation submitted and confirms it has no specific requirements, except that the EIS must address the provisions of the *State Environmental Planning Policy (Coastal Management) 2018*. You should ensure your EIS meets the minimum form and content requirements outlined in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*.

In addition, you should ensure your EIS is prepared in consultation with Wollongong City Council and any other relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.

If you do not lodge a development application under section 4.12(8) of the *Environmental Planning and Assessment Act 1979* within 2 years of the date of this letter, you must consult with the Planning Secretary in relation to any further requirements for lodgement.

Should you have any further enquiries, please contact Mary Ellen Trimble, Planning and Assessment, at the Department on (02) 9274 6213 or maryellen.trimble@planning.nsw.gov.au

Yours sincerely

A handwritten signature in black ink that reads 'C. Ritchie'.

Chris Ritchie
Director
Industry Assessments
as delegate of the Planning Secretary



FOUNDATION

PLANNING

LAWYERS. PLANNERS. DEVELOPMENT CONSULTANTS.

FOUNDATION PLANNING - ENVIRONMENTAL IMPACT STATEMENT (EIS)

77 EXCELSIOR DRIVE, AUSTINMER NSW 2515 | LOT 27
DP270554

PROPOSED DEVELOPMENT
Construction of a swimming pool

Alex Kelly
Director | Lawyer | Development Consultant
Foundation Law Group | Foundation Planning
*Accredited Specialist – Planning and Environment
Law*
BA/LLB GDLP

March 2020



TABLE OF CONTENTS

Contents

1.	DECLARATION	2
2.	GLOSSARY AND ABBREVIATIONS	2
3.	EXECUTIVE SUMMARY	3
4.	INTRODUCTION	4
	Project Overview	4
	Project Objectives.....	5
	Project History	5
	Alternatives	5
	SEARs	5
	Structure of the EIS.....	6
	Proponent details	6
5.	PROJECT DESCRIPTION	7
6.	STRATEGIC AND STATUTORY CONTEXT	8
	Environmental Planning and Assessment Act 1979	8
	Coastal Management SEPP.....	8
	Wollongong Local Environmental Plan 2009 (WLEP)	11
	Wollongong Development Control Plan 2009.....	12
7.	CONSULTATION	15
8.	EVALUATION AND CONCLUSION.....	15
	APPENDICES	17



1. DECLARATION

This Environmental Impact Statement (**EIS**) has been prepared in accordance with Schedule 2 of the *Environmental Planning and Assessment Regulation 2000 (EPA Reg)*.

This EIS contains all information relevant to the environmental assessment of the Development.

Every effort has been made to ensure the accuracy of the information presented here so as to ensure that no aspect of the EIS is false or misleading in any way.

2. GLOSSARY AND ABBREVIATIONS

Where the following terms are used throughout this EIS, they are intended to have their corresponding meaning in the table below.

Coastal Management SEPP	means the <i>State Environmental Planning Policy (Coastal Management) 2018</i>
Development	means the construction of an inground, fibreglass, 9 metre swimming pool at the Site
EIS	means this Environmental Impact Statement
EPA Act	means the <i>Environmental Planning and Assessment Act 1979 (NSW)</i>
EPA Reg	means the <i>Environmental Planning and Assessment Regulation 2000</i>
SEARs	means Secretary's Environmental Assessment Requirements which set out clear expectations on the level of assessment required for each relevant matter which must be addressed by the proponent in the EIS.
Secretary	means the Secretary of the NSW Department of Planning and Environment
Site	means 77 Excelsior Drive, Austinmer NSW 2515, also known as Lot 27 DP270554



WDCP means *Wollongong Development Control Plan 2009*

WLEP means *Wollongong Local Environmental Plan 2009*

3. EXECUTIVE SUMMARY

This EIS is prepared on behalf of the proponent, Shane Humphries, the registered proprietor of the Site.

The proponent seeks approval for the construction of a fibreglass swimming pool in his backyard.

The Site is currently occupied by a single dwelling. The proposed development is ancillary to the residential use of the Site and is not intended to serve any other purpose.

That part of the Site on which the Development is proposed to be carried out is identified as "littoral rainforest" on the *Coastal Wetlands and Littoral Rainforests Area Map*.

Clause 10(2) of the Coastal Management SEPP declares any development (including the construction of a pool, for example) as 'designated development'.

Due to its 'designated development' status, the proposed Development must be the subject of an EIS and conform to the Secretary's Environmental Assessment Requirements.

On 26 February 2020, the writer contacted the Industry Assessments Division of the Department of Planning, Industry and Environment, seeking the SEARs for the proposed Development.

In response to the request, the Department advised:

“

The Department of Planning and Environment (the Department) has reviewed the documentation submitted and confirms it has no specific requirements, except that the EIS must address the provisions of the State Environmental Planning Policy (Coastal Management) 2018. You should ensure your EIS meets the minimum form and content requirements outlined in Schedule 2 of the Environmental Planning and Assessment Regulation 2000.

In addition, you should ensure your EIS is prepared in consultation with Wollongong City Council and any other relevant local, State and



Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.

”

This EIS has been prepared having regard to the *Draft Environmental Impact Assessment Guidance Series*, June 2017.

The following documents are attached to, and thereby form part of, this EIS:

1. 'Owners Consent to Lodge Development Application' form, executed by the proponent and dated 18 November 2019.
2. Development Application Form submitted to Wollongong City Council and dated 18 November 2019.
3. Statement of Environmental Effects and Waste Management Letter, prepared by Narellan Pools, dated 21 November 2019.
4. Plan of Proposed Pool, prepared by Narellan Pools and dated 14 November 2019.
5. Engineering Specifications for Pool Constructions, prepared by Showers Engineering, dated 15 June 2015.
6. Sydney Water Approval Letter, dated 22 November 2019.
7. SEARs from Department of Planning, Industry and Environment.

The proposed Development will be carried out on an area of the Site that is not occupied by littoral rainforest. The proposed footprint of the swimming pool is located south of and adjacent to the existing dwelling.

The proposed Development poses no impact on the vegetation forming the mapped littoral rainforest. It is assumed that the identification of the site of the proposed Development as 'littoral rainforest' is an anomaly of the overlay, given that this area of land has not been vegetated for many years.

4. INTRODUCTION

Project Overview

The proposed development is, as set out above, limited to the construction of an inground, fibreglass swimming pool that is 9 metres in length.

The pool will be constructed in accordance with the engineering specifications prepared by Showers Engineering, dated 15 June 2015.



The proposed swimming pool will be 9.3m long and 4.2m wide, being 39.06 square metres in size, requiring 29 cubic metres of soil excavation.

Project Objectives

The objective of the proposed Development is simply to add amenity to the residence, as well as promote active leisure.

Project History

The proposed Development does not have a detailed history to speak of. The Site is currently occupied by a single dwelling. The swimming pool will be located immediately adjacent to the existing dwelling, as depicted in relevant figures below.

The reason that this particular location has been identified for the proposed Development is outlined in more detail below.

Alternatives

It is technically possible to locate the pool elsewhere on the Site. However, the proposed location is the only practical location. The balance of the yard associated with the dwelling is largely constituted of hard rock, which is difficult to excavate and significantly more expensive. It may also require additional and unnecessary geotechnical investigation to ensure that the Site will remain stable.

Moreover, the proposed location of the pool is visible from the lounge room and kitchen leading to better design outcomes and pool safety via passive surveillance.

The only other alternative would be to simply not proceed with the development. However, in light of the existing residential use of the Site and the minimal impact if any it poses to the nearby littoral rainforest, there is no reason why development of the kind proposed should not be able to proceed.

SEARs

On 26 February 2020, the writer contacted the Industry Assessments Division of the Department of Planning, Industry and Environment, seeking the SEARs for the proposed Development.

In response to the request, the Department advised:

“

The Department of Planning and Environment (the Department) has reviewed the documentation submitted and confirms it has no specific requirements, except that the EIS must address the provisions of the



State Environmental Planning Policy (Coastal Management) 2018. You should ensure your EIS meets the minimum form and content requirements outlined in Schedule 2 of the Environmental Planning and Assessment Regulation 2000.

In addition, you should ensure your EIS is prepared in consultation with Wollongong City Council and any other relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.

”

Structure of the EIS

This EIS has been prepared having regard to the *Draft Environmental Impact Assessment Guidance Series*, June 2017. As such, it is structured generally in accordance with the proposed index set out in the Guidance publication, at 3.2:

- Declaration
- Glossary and abbreviations
- Executive summary
- Introduction
 - Project overview
 - Project objectives
 - Project history
 - Feasible alternatives
 - SEARs
- Project description
- Strategic and statutory context
- Engagement
- Evaluation and conclusion
- List of appendices

Proponent details

The proponent is identified above as Shane Humphries, the registered proprietor of 77 Excelsior Drive, Austinmer NSW 2515. This EIS has been prepared by Foundation Planning as his agent.



5. PROJECT DESCRIPTION

As outlined above, the proposed Development includes the construction of a swimming pool in the rear yard of the Site.

The proposed Development will involve the following works:

- excavation of approximately 29 (twenty-nine) cubic metres of soil;
- laying of sand bed;
- installation of fibreglass frame;
- backfilling with sand and cement;
- implementation of plumbing and drainage infrastructure;
- pouring of concrete bond beam; and
- installation of filtration system.

The proposed swimming pool will be located adjacent to the dwelling, in the location depicted in Figure 1 below:



Figure 1 – Aerial of dwelling, showing approximate location of proposed swimming pool; light green overlay denotes mapped littoral rainforest



The proposed swimming pool will be located in an area that is currently clear of vegetation and will not impact proximate vegetation in any significant way.

6. STRATEGIC AND STAUTORY CONTEXT

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979 (EPA Act)* is the principal source of planning law in New South Wales, from which all applicable instruments, plans, controls and policies derive their authority.

The Coastal Management SEPP is an environmental planning instrument enacted pursuant to the EPA Act.

Section 4.5 of the EPA Act provides, relevantly, that unless an environmental planning instrument (in this case the Coastal Management SEPP) declares a particular authority to be the consent authority for development to which it relates, then the local council is the relevant consent authority.

Coastal Management SEPP does not make any special declaration in this regard. It therefore follows that Wollongong City Council is the relevant consent authority for the purpose of the proposed Development.

Coastal Management SEPP

The Coastal Management SEPP updates and consolidates into one integrated policy SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection), including clause 5.5. of the Standard Instrument – Principal Local Environmental Plan. These policies are now repealed.

The Coastal Management SEPP commenced on 3 April 2018 and gives effect to the objectives of the *Coastal Management Act 2016* from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the coastal zone.

An integrated and coordinated approach to land use planning is promoted by the Coastal Management SEPP. It defines the four coastal management areas in the EPA Act through detailed mapping and specifies assessment criteria that are tailored for each coastal management area. Councils and other consent authorities must apply these criteria when assessing proposals for development that fall within one or more of the mapped areas.

That part of the Site on which the Development is proposed to be carried out is identified as “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map*.



Clause 10(2) of the Coastal Management SEPP declares any development (including the construction of a pool, for example) as 'designated development'.

Due to its 'designated development' status, the proposed Development must be the subject of an EIS and conform to the Secretary's Environmental Assessment Requirements.

Table 1 below is a compliance table, which addresses relevant clauses of the Coastal Management SEPP and how they are met by, or are not relevant to, the proposed Development.

Clause number	Clause wording	Comment
10(1)	<p>The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent—</p> <p>(a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,</p> <p>(b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,</p> <p>(c) the carrying out of any of the following—</p> <p style="padding-left: 40px;">(i) earthworks (including the depositing of material on land),</p> <p style="padding-left: 40px;">(ii) constructing a levee,</p> <p style="padding-left: 40px;">(iii) draining the land,</p> <p style="padding-left: 40px;">(iv) environmental protection works,</p>	<p>The location of the proposed swimming pool, as depicted in <i>Figure 1</i> above, is partly mapped as 'littoral rainforest', for the purposes of clause 10(1).</p> <p>The proposed Development falls within the category of '<i>any other development</i>' for the purposes of subclause 10(1)(d).</p>



	(d) any other development.	
10(2)	Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.	The proposed Development is declared 'designated development', giving rise to the requirement to prepare this EIS.
10(4)	A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.	<p>The consent authority should be satisfied that the proposed Development is reasonably innocuous, or inoffensive to the directive of subclause (4), in that no vegetation is proposed to be removed, whatsoever.</p> <p>Due to the fact that the proposed swimming pool is to be located away from the existing vegetation, there is little that may be done to enhance the biophysical, hydrological and ecological integrity of the Site or its surrounds.</p> <p>However, it can be shown that no adverse impact will arise as a consequence of the Development.</p>
15	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.	There is no evidence that the proposed Development will have any impact whatsoever on coastal hazards.



16	Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.	To the best of the writer's knowledge, there is no coastal management program that applies to the Site.
----	--	---

Wollongong Local Environmental Plan 2009 (WLEP)

The Site is zoned E3 Environmental Management under the WLEP.

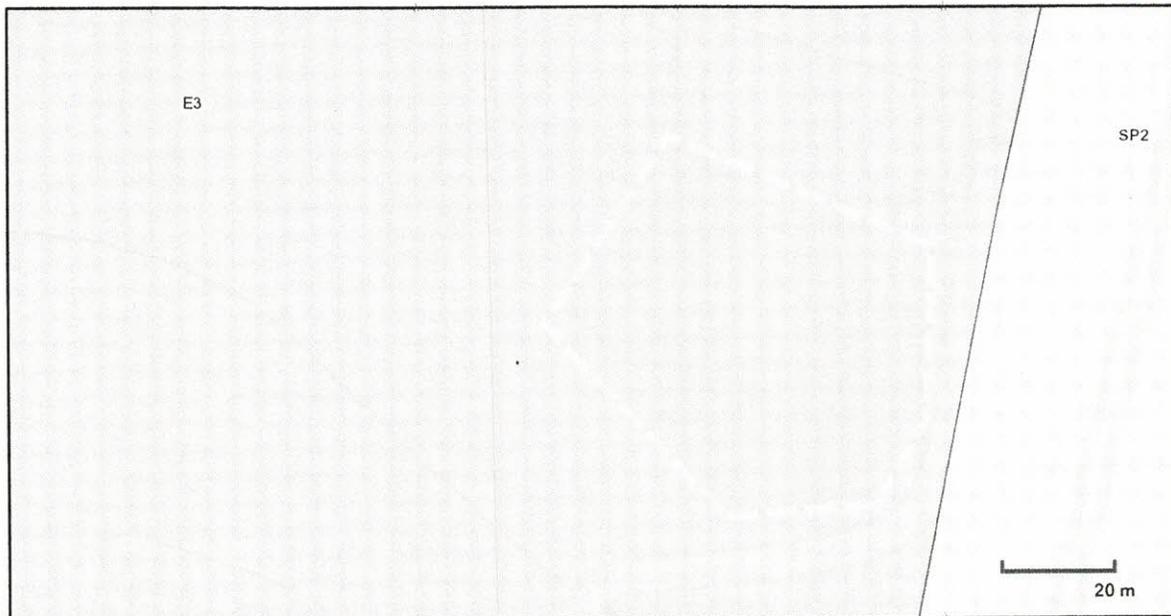


Figure 2 – Extract of zoning map for the Site – boundary of Site depicted by yellow dash

The proposed swimming pool is ancillary to the residential use of the Site. Dwelling houses are a nominated permissible use in the E3 zone.

There are no standards contained in the WLEP that are of particular relevance to the proposed Development.



Wollongong Development Control Plan 2009

Chapter B1 of the *Wollongong Development Control Plan 2009 (WDCP)* relates to residential development on the Site.

Clause 4.18 of that Chapter addresses swimming pools and spas. The objectives of the relevant controls are outlined at clause 4.18.1, as follows:

- a) *To ensure that swimming pools meet relevant safety standards and meet user needs.*
- b) *To ensure swimming pools and spas are sited and designed to maintain the amenity of the surrounding residential neighbourhood.*

The relevant standards for swimming pools are set out in subclause 4.18.2. A compliance table is set out below, that addresses each of the controls set out in that clause.

I draw the consent authority's attention to control 12(b), for which compliance is sought pursuant to a condition of development consent.

Control set out at cl 4.18.2	Clause wording	Comment
1	<p><i>Ancillary development comprising a swimming pool and / or spa for private use must be located on land:</i></p> <p>a) <i>That contains an existing dwelling or a dwelling is constructed on the land at the same time the swimming pool and / or spa is constructed.</i></p> <p>b) <i>Behind the building line of a primary road setback.</i></p>	<p><i>The swimming pool is proposed be constructed on a Site that is occupied by an existing dwelling and will be located behind the building line of that dwelling.</i></p>
2	<p><i>For corner sites or where a property has two road frontages, the location of the swimming pool or spa is not to be in the primary frontage.</i></p>	<p><i>Not applicable</i></p>
3	<p><i>Where a swimming pool or spa is proposed between the building façade and the secondary road frontage, appropriate landscape buffer screen planting will be required within the pool enclosure, behind the child resistant barrier, (i.e.</i></p>	<p><i>Not applicable</i></p>



	<i>so as not to affect the performance of the child resistant barrier) surrounding the pool enclosure.</i>	
4	<i>Where a boundary fence is proposed to form part of the pool fence and it adjoins a public road the fence must be 1.8m high.</i>	<i>Not applicable</i>
5	<i>A swimming pool or spa must not be located:</i> <i>a) Over an easement or restricted building zone.</i> <i>b) Within a zone of influence of a public sewer main.</i> <i>c) Within a zone of influence of a public drainage pipe.</i> <i>d) Within a riparian buffer zone.</i> <i>e) Without appropriate approval by the relevant authority or person benefiting from the easement of covenant.</i>	<i>In response to these standards:</i> <i>a) not applicable</i> <i>b) not applicable</i> <i>c) not applicable</i> <i>d) not applicable</i> <i>e) not applicable</i>
6	<i>The swimming pool water line or spa water line must have a setback of at least 900mm from any side or rear boundary.</i>	<i>The proposal complies.</i>
7	<i>Any decking around a swimming pool or spa must not be more than 600mm above ground level (existing).</i>	<i>The proposal complies.</i>
8	<i>8. Coping around a swimming pool must not be more than:</i> <i>a) 1.4m above ground level (existing), and</i> <i>b) 300mm wide if the coping is more than 600mm above ground level (existing).</i>	<i>The proposal complies.</i>
9	<i>Any in-ground swimming pool or spa should be constructed so that the top edge of the swimming pool / spa is as close as possible to the existing ground level. On sloping sites, this may require excavation on the high side of the</i>	<i>The proposal complies.</i>



	<p>site, in order to ensure minimal out of ground exposure of the swimming pool at the low side.</p>	
10	<p>Water from paved areas must not be discharged to any watercourse.</p>	<p>The swimming pool will not drain to a watercourse.</p>
11	<p>Overflow paths must be provided to allow for surface flows of water in paving areas around the pool and shall not be directed or connected at any point onto the adjoining property.</p>	<p>The proposal complies.</p>
12	<p>Discharge and/or overflow pipe(s) from the swimming pool and filtration unit are:</p> <p>a) To be discharged in accordance with an approval under the Local Government Act 1993 if the lot is not connected to a sewer main.</p> <p>b) In the case of land within Rural / non-urban or Environmental Protection zones having an area greater than 1000m², to incorporate disposal pits located a minimum of 3m from any property boundary except where on-site disposal is not recommended in a geotechnical report prepared for the land or for the development.</p> <p>c) Not to discharge water to any watercourse.</p>	<p>In response to each of the subclauses:</p> <p>a) The proposal complies</p> <p>b) As a consequence of oversight alone, the current proposal does not incorporate disposal pits. However, the proponent is willing to incorporate these pits into the proposal and invites the consent authority to grant development consent on the condition that disposal pits be installed in accordance with this control.</p> <p>c) The proposal complies.</p>
13	<p>Pool excavations are not to conflict with the position of any stormwater drainage trench or line (including any inter-allotment drainage line), the position of which must be ascertained and shown on the site plan before pool excavation commences.</p>	<p>The proposal complies.</p>
14	<p>A swimming pool must be surrounded by a child resistant barrier complying with the requirements of the Swimming Pools Act 1992 (and Regulations) and the appropriate Australian Standard as referenced by the Building Code of Australia.</p>	<p>The proposal complies.</p>
15	<p>The wall of a residential building may form part of the child restraint barrier so long as the wall</p>	<p>Not applicable.</p>



	<i>contains no openable door, window or other opening through which access may at any time be gained to the swimming pool.</i>	
16	<i>A minimum of 50% of the perimeter of a pool must be accessible for rescue purposes.</i>	<i>The proposal complies.</i>
17	<i>A spa pool is not required to be surrounded by a child resistant barrier provided that the spa pool is covered or secured by way of a child-safe structure (eg door, lid, grill or mesh) that is fastened to the spa pool by a child-resistant device, at all times, when the spa pool is not in actual use.</i>	<i>The proposal complies.</i>
18	<i>Structures such as tool sheds garages, barbeques, clotheslines or other like structures not appurtenant to a swimming pool must be located outside the fenced pool enclosure.</i>	<i>The proposal complies.</i>
19	<i>The pool pump / filter must be located as far away as practicable from any adjoining dwelling and should be enclosed in an acoustic enclosure / structure.</i>	<i>The proposal complies. There are no dwellings adjacent to the southern boundary of the Site.</i>

The proposed Development complies with the relevant and applicable controls set out in the WDCP.

7. CONSULTATION

It is proposed that all appropriate levels of consultation will be satisfied once the development application for the proposal is advertised and submissions invited.

Given the nature of the proposed Development, a high degree of community consultation is not appropriate or feasible in the circumstances.

8. EVALUATION AND CONCLUSION

The proposed Development is of generally low significance.

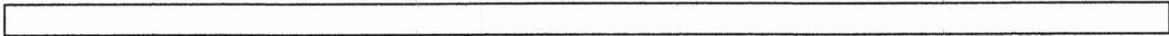
The requirement to prepare this EIS arises as a consequence of part of the Site being mapped 'littoral rainforest', pursuant to the Coastal Management SEPP.



The proposed Development is relatively innocuous and is suitable for the Site. It poses no impact on the existing littoral rainforest vegetation that is located outside the area in which the swimming pool will be situated.

Construction of a swimming pool as an ancillary component to an existing dwelling is anticipated by the zoning and its objectives. All relevant standards contained within the WDCP are met or are capable of being met.

The proposal has strategic and planning merit. The consent authority should see clear to granting development consent.



Prepared by

Alex Kelly
Director and Principal
Accredited Specialist – Planning and Environment Law

Office: (02) 8379 1877
Email: alex@foundationlaw.com.au



APPENDICES

The following documents are attached to, and thereby form part of, this EIS:

1. 'Owners Consent to Lodge Development Application' form, executed by the proponent and dated 18 November 2019.
2. Development Application Form submitted to Wollongong City Council and dated 18 November 2019.
3. Statement of Environmental Effects and Waste Management Letter, prepared by Narellan Pools, dated 21 November 2019.
4. Plan of Proposed Pool, prepared by Narellan Pools and dated 14 November 2019.
5. Engineering Specifications for Pool Constructions, prepared by Showers Engineering, dated 15 June 2015.
6. Sydney Water Approval Letter, dated 22 November 2019.
7. SEARs from Department of Planning, Industry and Environment.

Attachment 4: Wollongong Development Control Plan 2009 Assessment

CHAPTER B1 – RESIDENTIAL DEVELOPMENT

As the proposal relates to the installation of a swimming pool and fence and extension of the existing paving area to surrounding, the majority of controls within this Chapter would not strictly apply. An assessment against the relevant controls is provided below.

4.0 General Residential controls

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>4.5 Landscaped Area</u>		
<ul style="list-style-type: none"> Minimum Required 20% permeable area capable of growing trees, shrubs, groundcover and/or lawn. 	The proposal would retain more than 45% of the total site area as landscaped space.	Yes
<u>4.6 Private Open Space</u>		
<ul style="list-style-type: none"> 24m² of private open space must be directly accessible from the living areas; min width of 4m and no steeper than 1:50. 	The proposed development will not alter the existing private open space arrangement. More than 24sqm of POS area will be retained to the rear of the dwelling house.	Yes
<u>4.12 Site Facilities</u>		
<ul style="list-style-type: none"> Letterboxes in an accessible location Air-con, satellite dishes and other ancillary structures to be located away from street frontage, not in a place where they are a skyline feature and adequately setback 	The proposal would not result in impacts on the existing site facilities. The pool filter is proposed to be located within the existing shed.	Yes
<u>4.13 Fire Brigade Servicing</u>	Fire brigade servicing would remain as per the existing arrangement, with a hydrant located to the immediate north west of the driveway area.	Yes
<u>4.14 Services</u>	The site has existing connection to required services.	Yes
<u>4.17 Retaining walls</u>	No retaining walls are proposed as part of the subject application.	N/A
<u>4.18 Swimming pools and spas</u>		
<ol style="list-style-type: none"> Ancillary development comprising a swimming pool and / or spa for private use must be located on land: <ol style="list-style-type: none"> That contains an existing dwelling or a dwelling is constructed on the land at the same time the swimming pool and / or spa is constructed. Behind the building line of a primary road setback. For corner sites or where a property has two road frontages, the location of the swimming 	<p>The site contains an existing dwelling house.</p> <p>The pool is proposed behind the primary building line.</p> <p>The site is located on a bend in the Excelsior Drive area. The swimming</p>	<p>Yes</p> <p>Yes</p>

<p>pool or spa is not to be in the primary frontage.</p>	<p>pool is proposed behind the primary front building line.</p>	
<p>3. Where a swimming pool or spa is proposed between the building façade and the secondary road frontage, appropriate landscape buffer screen planting will be required within the pool enclosure, behind the child resistant barrier, (i.e. so as not to affect the performance of the child resistant barrier) surrounding the pool enclosure.</p>	<p>The is an existing landscaped bed within the setback to Excelsior Drive screening the site from the road</p>	
<p>4. Where a boundary fence is proposed to form part of the pool fence and it adjoins a public road the fence must be 1.8m high</p>	<p>A boundary fence is not proposed to form part of the pool fence</p>	<p>N/A</p>
<p>5. A swimming pool or spa must not be located:</p> <ul style="list-style-type: none"> a) Over an easement or restricted building zone. b) Within a zone of influence of a public sewer main. c) Within a zone of influence of a public drainage pipe. d) Within a riparian buffer zone: e) Without appropriate approval by the relevant authority or person benefiting from the easement of covenant. 	<p>The proposed pool is not located within any of the areas listed.</p>	<p>N/A</p>
<p>6. The swimming pool water line or spa water line must have a setback of at least 900mm from any side or rear boundary.</p>	<p>The pool is setback a minimum of 13.5m from the property boundary.</p>	<p>N/A</p>
<p>7. Any decking around a swimming pool or spa must not be more than 600mm above ground level (existing).</p>	<p>The submitted site plan indicates that the existing paved area surrounding the house is proposed to be extended to surrounding the pool and will be up to 400mm above the existing ground level at the south eastern end of the pool. No retaining walls or significant changes in landform are expected.</p>	<p>Yes</p>
<p>8. Coping around a swimming pool must not be more than:</p> <ul style="list-style-type: none"> a) 1.4m above ground level (existing), and b) 300mm wide if the coping is more than 600mm above ground level (existing). 	<p>See above. The coping around the proposed pool would be at ground level in the north western corner of the pool, and up to 400mm above the existing ground level in the south eastern corner of the pool. 800mm wide coping is indicated surrounding the pool.</p>	<p>Yes</p>
<p>9. Any in-ground swimming pool or spa should be constructed so that the top edge of the swimming pool / spa is as close as possible to the existing ground level. On sloping sites, this may require excavation on the high side of the site, in order to ensure minimal out of ground</p>	<p>See above. The pool level would be a maximum of 400mm out of the ground at the south eastern corner and will be surrounded by hardstand area.</p>	<p>Yes</p>

<p>exposure of the swimming pool at the low side.</p>		
<p>10. Water from paved areas must not be discharged to any watercourse.</p>	<p>A condition is recommended requiring that any water from the pool or paved areas not be discharged to any watercourse. A cartridge filtration system has been proposed.</p>	<p>Yes</p>
<p>11. Overflow paths must be provided to allow for surface flows of water in paving areas around the pool and shall not be directed or connected at any point onto the adjoining property.</p>	<p>Given the fall of the land, any runoff from the paved areas or overflow from the pool would be directed to the Middle Heights Estate Community Lot. Councils Stormwater Engineer has considered the potential runoff and provided a conditionally satisfactory referral.</p>	<p>Yes</p>
<p>12. Discharge and/or overflow pipe(s) from the swimming pool and filtration unit are:</p> <p>a) To be discharged in accordance with an approval under the Local Government Act 1993 if the lot is not connected to a sewer main.</p> <p>b) In the case of land within Rural / non-urban or Environmental Protection zones having an area greater than 1000m², to incorporate disposal pits located a minimum of 3m from any property boundary except where on-site disposal is not recommended in a geotechnical report prepared for the land or for the development.</p> <p>c) Not to discharge water to any watercourse.</p>	<p>The applicant has advised that a cartridge filtration system for the pool is to be installed, as there is no sewer connections in this area. Discharge to an on site sewerage management system is not proposed. The existing system on site has an existing licence pursuant to the Local Government Act 1993. Conditions have been recommended by Councils Environment Officer in this regard.</p> <p>No disposal pits are proposed in this case.</p>	<p>Yes</p>
<p>13. Pool excavations are not to conflict with the position of any stormwater drainage trench or line (including any inter-allotment drainage line), the position of which must be ascertained and shown on the site plan before pool excavation commences.</p>	<p>The proposed pool location would not conflict with any known stormwater drainage trench or line. Conditions will be recommended with regard to locating services prior to the issue of any Construction Certificate.</p>	<p>Yes</p>
<p>14. A swimming pool must be surrounded by a child resistant barrier complying with the requirements of the Swimming Pools Act 1992 (and Regulations) and the appropriate Australian Standard as referenced by the Building Code of Australia.</p>	<p>A swimming pool fence is indicated on the site plan. Conditions will be recommended in this regard.</p>	<p>Yes</p>
<p>15. The wall of a residential building may form part of the child restraint barrier so long as the wall contains no openable door, window or other opening through which access may at any time be gained to the swimming pool.</p>	<p>The wall of the building is not proposed to be used as part of the child restraint barrier.</p>	<p>N/A</p>
<p>16. A minimum of 50% of the perimeter of a pool must be accessible for rescue purposes</p>	<p>More than 50% of the pool would be accessible for rescue purposes.</p>	<p>Yes</p>

CHAPTER B6: DEVELOPMENT IN THE ILLAWARRA ESCARPMENT

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>5 Visual impact assessment</u>	The site would be located within the Cliff Coast Precinct pursuant to this control. A visual impact assessment is not considered required in this case. The pool would not be expected to be visible from any of the stated view points for the Cliff Coast area.	N/A
<u>6 Aboriginal heritage</u>	There is considered minimal potential for aboriginal heritage given the disturbed nature of the site.	N/A
<u>7 Heritage (European)</u>	The site is not located in close proximity to any mapped environmental heritage item. The Illawarra escarpment heritage conservation area commences on the western side of Buttenshaw Drive and therefore does not affect the subject site.	N/A
<u>8 Threatened species impact assessment</u>	The proposed pool would not be expected to result in adverse impacts on any threatened species.	N/A
<u>9 Geotechnical / land instability issues</u>		
<ul style="list-style-type: none"> A geotechnical report will be required for the majority of development upon lands within the Illawarra Escarpment, except in certain cases where previous geotechnical investigations have conclusively proven that a particular site or locality is not subject to any slope instability impacts. The geotechnical report is required to be prepared by a suitably qualified and experienced geotechnical engineer. 	The application submission was accompanied by a Geotechnical Report. Council's Geotechnical Officer reviewed the submitted report and initially sought additional information including additional sampling to be undertaken. An addendum report was provided and has been reviewed. The recommendations of the addendum report are considered satisfactory subject to conditions. Recommended conditions are provided within Attachment 5.	Yes
<u>12 General requirements</u>		
	It is not considered that any of the general requirements listed within this section would apply to the subject proposal.	N/A
<u>12.1 Fencing</u>		
<ul style="list-style-type: none"> Appropriate forms of fencing include post and wire or timber post and rail fencing. Front palisade fencing in a dark green or mid to dark brown colour may be suitable in certain circumstances. 	Pool fencing is required pursuant to the Swimming Pools Act 2000 and regulation. Conditions will be recommended in this regard.	Yes

- Light coloured fencing or metal sheeting fencing is not supported.
- Retaining walls, courtyard walls, fences and garden walls are to be of neutral or earthy colours.

12.2 Landscaping

- All new dwelling-houses and other new buildings must incorporate appropriate landscape planting which help to soften the built form, retain the scenic character of the area, shelter the dwelling against undesirable climate conditions, maintain privacy and protect against potential soil erosion problems.

-

12.3 Stormwater drainage/flooding

- All stormwater drainage systems are to be designed to prevent public access to any hazardous drainage and water quality facilities.
- The discharge of stormwater runoff must be restricted into a lawful point of discharge such as a natural watercourse or waterway to which the development site naturally drains or existing stormwater drainage systems as agreed to by Council.

12.4 Water supply

- The provision of an on-site (non-reticulated) water supply system with a minimum storage capacity of 100,000 litres is required for each dwelling. The water supply is recommended to comprise of a number of underground and above ground rainwater tank(s), in order to provide some flexibility in catering for both domestic water supply and livestock watering requirements.

12.5 Wastewater management/Treatment systems

- For lands unserved by reticulated sewerage supplies, a waste water treatment system is required to be provided in accordance with the On-site Sewage Management Systems chapter in Part E of the DCP.

12.6 Waste Management

The site has existing landscaping which is not proposed to be impacted as a result of the proposed pool. The development satisfies the objectives of Council's Landscaping controls and policies for development within the Illawarra Escarpment. The application submission has been reviewed by Council's Environment Officer and no issues were raised.

The proposed development satisfies the objectives of the Council's Stormwater controls and policies. Any stormwater runoff from the additional hard surfaces would fall to the existing stormwater management system which is located within the Excelsior Drive area. There would be no alteration to the existing onsite drainage systems as a result of the development.

The proposal would not result in any change to the existing on-site water supply system. The site has connection to Sydney Water potable water and existing rainwater tanks on the site.

The dwelling has an existing on site sewerage management system which has an existing approval to operate pursuant to the Local Government Act 1993. Conditions are recommended requiring the installation of a cartridge filtration system. The pool is not proposed to be connected to the existing on site management system.

Yes

Yes

Yes

Yes

Yes

<u>12.7 Riparian Corridor Management</u>	Conditions are recommended with regard to waste management during construction.	N/A
<u>12.8 BASIX</u>	<p>The proposed pool is not located in close proximity to any mapped riparian area.</p> <p>As the pool has a capacity of less than 40,000L, a BASIX certificate was not required.</p>	N/A

CHAPTER D1 – CHARACTER STATEMENTS

Austinmer is a leafy residential village which extends from the coastal strip right up to the slopes and foothills of the escarpment. Austinmer is a medium sized seaside village being slightly smaller than Thirroul but larger than other seaside villages to the north.

The proposal is considered to be consistent with the existing and desired future character for the locality.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has been provided in accordance with this chapter.

There is no demolition proposed as part of the development application.

Suitable waste storage and servicing arrangements have been provided as follows:

- Designated area for waste and material stockpile
- Excess waste to be removed from the site.

Information has been submitted to state 29m² of excavated soil would be disposed of at an approved facility. A condition is recommended in this regard.

CHAPTER E8 ONSITE SEWAGE MANAGEMENT SYSTEMS

The dwelling has an existing on-site sewerage management system which has an existing approval to operate pursuant to the Local Government Act 1993. Conditions are recommended requiring the installation of a cartridge filtration system. The pool is not proposed to be connected to the existing on site management system.

CHAPTER E12 GEOTECHNICAL ASSESSMENT

The application submission was accompanied by a Geotechnical Report. Council's Geotechnical Officer reviewed the submitted report and initially sought additional information including additional sampling to be undertaken. An addendum report was provided and has been reviewed. The recommendations of the addendum report are considered satisfactory subject to conditions. Recommended conditions are provided within Attachment 5.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is identified as being located within an uncategorised flood risk precinct. A flood review and concept stormwater plan have been provided. Council's stormwater engineer has reviewed the proposal with respect to the provisions of this chapter and clause 7.3 of WLEP 2009 and has advised no objections to the work, subject to conditions of consent. The proposed pool is located outside of the flood extents. The recommended conditions are provided within Attachment 5 and include the requirement for any electrical equipment associated with the pool to be located above the 100 year flood level + 500mm freeboard. The existing shed appears to be well above this level.

CHAPTER E14 STORMWATER MANAGEMENT

Stormwater is proposed to be disposed of to the existing stormwater system. Council's stormwater engineer has reviewed the proposal with respect to the provisions of this chapter and has advised no objections to the work, subject to conditions of consent. The recommended conditions are provided within Attachment 5.

CHAPTER E16 BUSHFIRE MANAGEMENT

The subject site is identified as bushfire prone land, containing both Category 1 vegetation and a vegetation buffer area. The proposed pool and fencing would be considered Class 10b structures. Conditions are included at Attachment 5 with regard to compliance with Planning for Bushfire Protection 2019.

CHAPTER E19 EARTHWORKS (LAND RESHAPING WORKS)

The proposal involves excavations of up to 1.8m in relation to the construction of the pool. The excavation has been considered by Councils Geotechnical Engineer as discussed throughout this report. The required earthworks are not expected to result in adverse impacts on adjoining sites.

CHAPTER E22 SOIL EROSION AND SEDIMENT CONTROL

Sediment control fencing as shown on the site plan is proposed. Should this application be approved, a condition about sediment fencing should be applied. Conditions of consent are recommended in regard to appropriate sediment and erosion control measures to be in place during works.

Attachment 5: Conditions

Approved Plans and Specifications

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Drawing sheet 1-A and 2-A dated 14 November 2019 prepared by Narellan Pools and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

General Matters

2 Geotechnical

- a All work is to be in accordance with the geotechnical recommendations contained in the report dated 4 June 2020 by Geotechnique and any subsequent geotechnical report required to address unanticipated conditions encountered during construction.
- b Foundation systems are to be designed for Class P soils with all footings for the pool and retaining structures to be founded within the underlying weathered bedrock as recommended by the geotechnical consultant.
- c A generic design for the pool is not appropriate for this site. A site-specific design is required for the hillside land where geotechnical constraints such as lateral earth pressures due to soil creep can affect the integrity of the structure. The structural designer of the pool needs to refer to the site geotechnical constraints as described in the geotechnical report.
- d The structural designs for all foundations are to be endorsed by the geotechnical consultant that all known site geotechnical constraints have been accommodated in the designs.
- e All surface water from the pool surrounds should be piped away from the site.
- f A subsoil drain needs to be installed under the pool with gravity outlet to maintain equilibrium soil moisture conditions.
- g All stormwater and wastewater are to be taken away from the building envelope by means as recommended by the geotechnical consultant. There is to be no in-ground absorption.
- h All excavations for foundations are to be inspected by the geotechnical consultant and certified that the ground has been suitably prepared for the placement of footings.

3 Building Work - Compliance with the Building Code of Australia

All building work must be carried out in compliance with the provisions of the Building Code of Australia.

4 Construction Certificate

A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The Certifier must cause notice of its determination to be given to the consent authority, and to the council, by forwarding to it, within two (2) days after the date of the determination, the plans and documentation referred to in clause 142 (2) of the Environmental Planning and Assessment Regulation 2000.

5 Occupation Certificate

An Occupation Certificate must be issued by the Principal Certifier prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifier must be satisfied that the requirements of section 6.9 of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

6 Endeavour Energy

Requirements issued by Endeavour Energy dated 17 June 2020 are attached and form part of this Notice of Determination – Attachment 1.

Prior to the Issue of the Construction Certificate

7 Present Plans to Sydney Water

Approved plans must be submitted online using Sydney Water Tap, available through www.sydneywater.com.au to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

The Principal Certifier must ensure that Sydney Water has issued an approval receipt prior to the issue of a Construction Certificate.

Visit www.sydneywater.com.au or telephone 13 20 92 for further information.

- 8 The depth and location of all services (ie gas, water, sewer, electricity, telephone, traffic lights, etc) must be ascertained and reflected on the Construction Certificate plans and supporting documentation.

Prior to the Commencement of Works

9 Appointment of Principal Certifier

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

- a Appoint a Principal Certifier (PC) and notify Council in writing of the appointment irrespective of whether Council or an accredited private certifier is appointed; and
- b Notify Council in writing of their intention to commence work (at least two days notice is required).

The Principal Certifier must determine when inspections and compliance certificates are required.

10 Residential Building Work – Compliance with the Requirements of the Home Building Act 1989

Building work involving residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates:

- a in the case of work to be done by a licensee under that Act:
 - i has been informed in writing of the licensee's name, contractor license number and contact address details (in the case of building work undertaken by a contractor under the Home Building Act 1989); and
 - ii is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
- b in the case of work to be done by any other person:
 - i has been informed in writing of the persons name, contact address details and owner-builder permit number; and
 - ii has been given a declaration signed by the property owner(s) of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989 and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the specific person or licensed contractor is the holder of an insurance policy issued for the purposes of that Part of the Act is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part of the Act.

11 Sign – Supervisor Contact Details

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a stating that unauthorised entry to the work site is not permitted;

- b showing the name, address and telephone number of the Principal Certifier for the work; and
- c showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

12 **Temporary Toilet/Closet Facilities**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- a A standard flushing toilet; and
- b connected to either:
 - i the Sydney Water Corporation Ltd sewerage system or
 - ii an accredited sewage management facility or
 - iii an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

13 **Structural Engineer's Details**

Structural engineer's details for all structurally designed building works such as reinforced concrete footings, reinforced concrete slabs and structural steelwork must be submitted to the Principal Certifier, prior to the commencement of any works on the site.

14 **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifier. No building work is to commence until the fence is erected.

15 **Temporary Sediment Fences**

Temporary geotextile fabric sediment fences must be correctly installed on the site, prior to the commencement of any excavation or construction works in accordance with "Managing Urban Stormwater: Soils and Construction", 4th edition, Landcom, 2004. The temporary sediment fences shall be maintained throughout the entire excavation and construction phases of the development. Upon completion of the development, sediment fencing shall remain until the site is stabilised.

16 **All-weather Access**

An all-weather stabilised access point must be provided to the site to prevent sediment leaving the site as a result of vehicular movement. Vehicular movement should be limited to this single accessway.

17 The arrangements and costs associated with any adjustment to a public utility service shall be borne by the applicant/developer. Any adjustment, deletion and/or creation of public utility easements associated with the approved works are the responsibility of the applicant/developer. The submission of documentary evidence to the Principal Certifier which confirms that satisfactory arrangements have been put in place regarding any adjustment to such services is required prior to any works commencing on site.

18 **Pool Excavations**

The pool excavations are not to conflict with the position of household drainage trenches or lines, the position of which must be ascertained before pool excavation commences.

19 **Tree Protection**

Prior to commencement of any work on the site, including any demolition, all trees not approved for removal as part of this consent that may be subjected to impacts of this approved development must be protected in accordance with Section 4 of the Australian Standard Protection of Trees on Development Sites (AS 4970-2009).

Tree protection zones must be established prior to the commencement of any work associated with this approved development.

No excavation, construction activity, grade changes, storage of materials stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones.

During Demolition, Excavation or Construction

20 **Cartridge Filtration System**

A cartridge filtration system for the swimming pool shall be installed.

21 **Site Filling**

No increases in ground surface levels on the site are permitted other than the pool coping. No wholesale filling of the site is permitted.

22 **Swimming Pool Inspections/Compliance Certificates**

The following pool inspections or alternatively, Compliance Certificates are required to be carried out/issued, during the construction of the swimming pool:

- a pool excavation completion (for fibreglass or fibrecrete construction);
- b steel reinforcement in position in accordance with approved details;
- c completion of pool safety fencing before filling with water;
- d completion of pool and erection of safety signage, prior to use.

23 **Restricted Hours of Construction Work**

The developer must not carry out any work, other than emergency procedures, to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Saturday, without the prior written consent of the Principal Certifier and Council. No work is permitted on public holidays or Sundays.

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a The variation in hours required (length of duration);
- b the reason for that variation (scope of works);
- c the type of work and machinery to be used;
- d method of neighbour notification;
- e supervisor contact number;
- f any proposed measures required to mitigate the impacts of the works.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent, including but not limited to, the Protection of the Environment Operations Act 1997.

24 Trucks which are entering and leaving the premises and carrying loads must be sealed or covered at all times, except during loading and unloading.

25 **Provision of Waste Receptacle**

The developer must provide an adequate receptacle to store all waste generated by the development, pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and re-usable materials.

26 **Swimming Pool Barriers**

The swimming pool shall be provided with child-resistant barriers, prior to the placement of water in the pool, in accordance with Section 7 of the Swimming Pools Act 1992 and Australian Standards AS1926. The barrier shall be installed to the satisfaction of the Principal Certifier.

27 **Warning Notice**

A warning notice complying with Clauses 10 and 11 of the Swimming Pools Regulation 2008 is to be displayed in a prominent position in the immediate vicinity of the swimming pool as required by Section 17 of the Swimming Pools Act 1992, prior to the filling of the pool with water.

- 28 **Excess Excavated Material – Disposal**
Excess excavated material shall be classified according to the NSW Environment Protection Authority’s Waste Classification Guidelines – Part 1: Classifying Waste (2014) prior to being transported from the site and shall be disposed of only at a location that may lawfully receive that waste.
- 29 **Landscaping**
Landscaping to the site is to comply with the principles of Appendix 4 of ‘Planning for Bush Fire Protection 2019’.
- 30 **Flood Compatible Materials – Electrical**
All power service (metering) equipment, power outlets, switches etc. shall be located above RL 40.0 metres AHD. All electrical wiring installed below this level should be suitable for continuous underwater immersion and should contain no fibrous components. Earth leakage circuit breakers shall also be installed. Any equipment installed below or partially below RL 40.0 metres AHD should be capable of disconnection by a single plug and socket assembly.
- 31 **Fences**
Any new fences constructed on the site and located in the flood plain shall be of a type that will not obstruct the free flow of floodwaters and not cause damage to surrounding land in the event of a flood.

Prior to the Issue of the Occupation Certificate

- 32 **Swimming Pool Barriers**
The swimming pool shall be provided with child-resistant barriers, prior to the placement of water in the pool, in accordance with Section 7 of the Swimming Pools Act 1992 and Australian Standards AS1926. The barrier shall be installed to the satisfaction of the Principal Certifier and prior to the issue of an Occupation Certificate.
- 33 **Warning Notice**
A warning notice complying with Clauses 10 and 11 of the Swimming Pools Regulation 2008 is to be displayed in a prominent position in the immediate vicinity of the swimming pool as required by Section 17 of the Swimming Pools Act 1992, prior to the filling of the pool with water and prior to the issue of an Occupation Certificate.

Operational Phases of the Development/Use of the Site

- 34 **Swimming Pool Water**
Any discharge of water from the pool should only be carried out after chlorine levels in the water have been depleted. Swimming pool water should not be discharged to a watercourse.
- 35 **Swimming Pool Filtration Motor**
The operation of the swimming pool filtration motor shall be restricted to the following hours of operation:
Monday to Friday - 7:00 am to 8:00 pm
Saturdays, Sundays and Public Holidays - 8:00 am to 8:00 pm
The equivalent continuous noise level ($L_{Aeq(15min)}$) of the swimming pool filtration motor shall not exceed 5dB(A) above the background noise level ($L_{A90(15min)}$) at the most affected point(s) along any boundary of the property.
- 36 **Loading/Unloading Operations/Activities**
All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.
- 37 **Bushfire – Maintenance of Landscaping**
The landscaping and the site must be maintained at all times as follows:
- There shall be minimal fine fuel at ground level which could be set alight by a bushfire. Leaves and vegetation debris should be removed.

- Use of non combustible ground surfaces such as gravel roads, paved areas, in-ground pools, etc is acceptable.
- Lawn areas shall be maintained low cut and clear.
- Areas under fences, fence posts, gates and trees shall be raked and kept clear of fine fuel.
- Gutters, roofs and roof gullies shall be kept free of leaves and other debris.
- Verandahs, decks, carports, etc shall not be used to store combustible materials and shall be kept free of leaves and other debris.
- Areas within courtyards shall be maintained free of leaves and other debris.
- Reticulated or bottle gas services shall be installed and maintained in accordance with AS 1596.
- Gas cylinder relief valves shall be directed away from the building and away from any hazardous materials such as firewood, etc.
- Climbing species are avoided to walls and pergolas;
- Trees at maturity should not touch or overhang the building;
- Lower limbs should be removed up to a height of 2m above the ground;
- Trees are smooth barked species or, if rough barked, shall be maintained free of decorticated bark and other ladder fuels (rough barked species are not encouraged);
- Shrubs should not be located under trees;
- Shrubs should not form more than 10% ground cover;
- Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- No part of a tree shall be closer to a power line than the distances set out in the current edition of "Planning for Bush Fire Protection".
- The use of local native plants with features that minimise the extent to which they contribute to the spread of bush fires is encouraged within the above constraints.

Attachment 1:

From: Cornelis Duba <Cornelis.Duba@endeavourenergy.com.au>
Sent: Wednesday, 17 June 2020 11:52 AM
To: Jessica Saunders
Cc: Jeanette Saban
Subject: Wollongong City Council Development Application DA-2020/273 RE 77 Excelsior Drive Austinmer
Attachments: DP270554 BUTTEN SHAW DR AUSTINMER.pdf; EE Drawing 86232 OH lines minimum clearances.pdf; SW Work near overhead power lines.pdf; ENA EMF What We Know.pdf; EE Safety Plumbing.pdf; EE Safety on the job.pdf; EE MDI0044 Easements and Property Tenure.pdf; EE General Restrictions OH Power Lines Apr 2020.pdf; EE Fact Sheet Building Construction.pdf

Hello Jessica

My apologies, my mobile phone ran out of charge.

In regard to your below email of 16 June 2020 regarding Development Application DA-2020/273 at 77 Excelsior Drive Austinmer (Lot 27 DP 270554) for 'Residential - swimming pool' as show in the below As shown in the below site plan from Endeavour Energy's G/Net master facility model there are:

- Easements benefitting Endeavour Energy (indicated by red hatching) for:
 - Low voltage overhead power lines to the southern side boundary.
 - An extended low voltage overhead service conductor going to a customer owned / private pole providing the customer connection for the existing dwelling on the site.

- The eastern front boundary adjoins easement for low voltage overhead power lines and a right of access.

For further details please refer to the attached copy of DP 270554.

Please note the location, extent and type of any electricity infrastructure, boundaries etc. shown on the plan is indicative only. In addition it must be recognised that the electricity network is constantly extended, augmented and modified and there is a delay from the completion and commissioning of these works until their capture in the model. Generally (depending on the scale and/or features selected), low voltage (normally not exceeding 1,000 volts) is indicated by blue lines and high voltage (normally exceeding 1,000 volts but for Endeavour Energy's network not exceeding 132,000 volts / 132 kV) by red lines (these lines can appear as solid or dashed and where there are multiple lines / cables only the higher voltage may be shown). This plan only shows the Endeavour Energy network and does not show electricity infrastructure belonging to other authorities or customers owned electrical equipment beyond the customer connection point / point of supply to the property. This plan is not a 'Dial Before You Dig' plan under the provisions of Part 5E 'Protection of underground electricity power lines' of the [Electricity Supply Act 1995](#) (NSW).

The following is a summary of the usual / main terms of Endeavour Energy's electrical easements requiring that the landowner:

- Not install or permit to be installed any services or structures within the easement site.
- Not alter the surface level of the easement site.

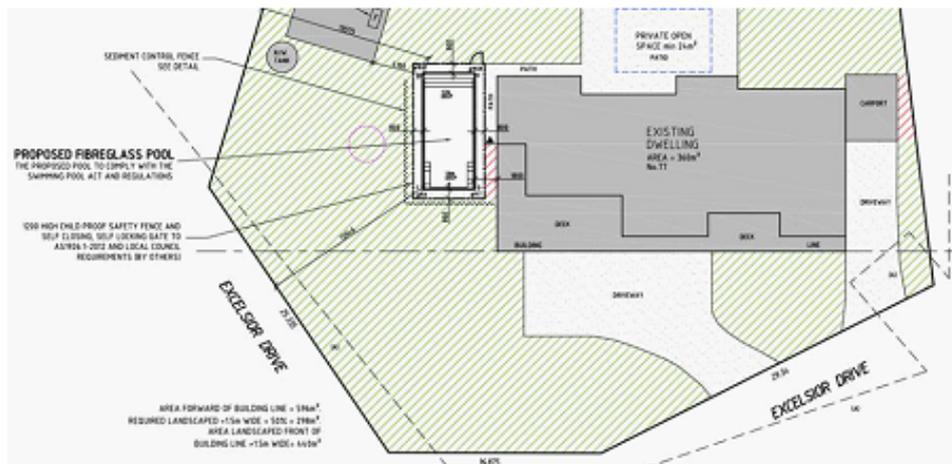
- Not do or permit to be done anything that restricts access to the easement site without the prior written permission of Endeavour Energy and in accordance with such conditions as Endeavour Energy may reasonably impose.

Endeavour Energy's preference is for no activities or encroachments to occur within its easement areas. However, if any proposed works (other than those approved / certified by Endeavour Energy's Network Connections Branch as part of an enquiry / application for load or asset relocation project) will encroach/affect Endeavour Energy's easements, contact must first be made with the Endeavour Energy's Easements Officer, Jennie Saban, on mobile 0417484402 or alternately via email Jennie.Saban@endeavourenergy.com.au or Easements@endeavourenergy.com.au.

Please find attached for the applicant's reference a copy Endeavour Energy's:

- General Restrictions for Overhead Power Lines.
- Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights' which deals with activities / encroachments within easements.

In this instance as shown in the following extract of the Site Plan the 'Proposed Fibreglass Pool' by scale it is approximately 12 metres from the edge of the pool / water line to the easement.



Subject to the foregoing and the following recommendations and comments Endeavour Energy has no objection to the Development Application.

- Safety Clearances

In regards to the low voltage overhead power lines which exit the easement, as a minimum any buildings, structures (including fencing, signage, flag poles etc.) whether temporary or permanent must comply with the minimum safe distances / clearances for voltages up to and including 132,000 volts (132 kV) as specified in:

- o Australian/New Zealand Standard AS/NZS 7000 – 2016: 'Overhead line design' as updated from time to time.

- o 'Service and Installation Rules of NSW' which can be accessed via the following link to the Energy NSW website:
<https://energy.nsw.gov.au/government-and-regulation/legislative-and-regulatory-requirements/service-installation-rules> .

These distances must be maintained at all times to all buildings and structures and regardless of the Council's allowable building setbacks etc. under its development controls. As a guide please find attached a copy of Endeavour Energy Drawing 86232 'Overhead Lines Minimum Clearances Near Structures'. The required safety clearances are not only based on the voltage but also the type, design and span of the conductors, types of insulators etc. which may change the required safety clearances.

If the safety clearances are inadequate, either the parts of the building or structure encroaching the required clearances or the overhead power lines will need to be redesigned to provide the required clearances. Consideration must still be given to the 'Work Near Overhead Power Lines Code of Practice 2006' which includes the following requirements.

TABLE 4
Approach distances for work near low voltage overhead service lines

Ordinary Persons (m)				
Hand held tools	Operation of crane or mobile plant	Handling of metal materials (Scaffolding, roofing, guttering, pipes, etc)	Handling of non-conductive materials (Timber, plywood, PVC pipes and guttering, etc)	Driving or operating vehicle
0.5	3.0	4.0	1.5	0.6

- **Earthing**

The construction of any building or structure (including fencing, signage, flag poles, hoardings etc.) whether temporary or permanent that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with Australian/New Zealand Standard AS/NZS 3000:2018 'Electrical installations' as updated from time to time. This Standard sets out requirements for the design, construction and verification of electrical installations, including ensuring there is adequate connection to the earth. It applies to all electrical installations including temporary builder's supply / connections.

Inadequate connection to the earth to allow a leaking/fault current to flow into the grounding system and be properly dissipated places persons, equipment connected to the network and the electricity network itself at risk from electric shock, fire and physical injury.

- **Network Access**

It is imperative that the access to the existing electrical infrastructure on and in proximity of the site be maintained at all times. To ensure that supply electricity is available to the community, access to the electricity infrastructure may be required at any time. Restricted access to electricity infrastructure by maintenance workers causes delays in power restoration and may have severe consequences in the event of an emergency.

- **Prudent Avoidance**

The electricity industry has adopted a policy of prudent avoidance by doing what can be done without undue inconvenience and at modest expense to avert the possible risk to health from exposure to emissions from electricity infrastructure such as electric and magnetic fields (EMF) and noise which generally increase the higher the voltage i.e. Endeavour Energy's network ranges from low voltage (normally not exceeding 1,000 volts) to high voltage (normally exceeding 1,000 volts but not exceeding 132,000 volts / 132 kV).

In practical terms this means that when designing new transmission and distribution facilities, consideration is given to reducing exposure and increasing separation distances to more sensitive uses such as residential or schools, pre-schools, day care centres or where potentially a greater number of people are regularly exposed for extended periods of time.

These emissions are usually not an issue but with Council's permitting or encouraging development with higher density, reduced setbacks and increased building heights, but as the electricity network operates 24/7/365 (all day, every day of the year), the level of exposure can increase.

Endeavour Energy believes that irrespective of the zoning or land use, applicants (and Council) should also adopt a policy of prudent avoidance by the siting of more sensitive uses e.g. the office component of an industrial building, away from and less susceptible uses such as garages, non-habitable or rooms not regularly occupied e.g. storage areas in a commercial building, towards any electricity infrastructure – including any possible future electricity infrastructure required to facilitate the proposed development.

Where development is proposed near electricity infrastructure, Endeavour Energy is not responsible for any amelioration measures for such emissions that may impact on the nearby proposed development.

Please find attached a copy of Energy Networks Association's 'Electric & Magnetic Fields – What We Know' which can also be accessed via their website at <https://www.energynetworks.com.au/electric-and-magnetic-fields> and provides the following advice:

Electric fields are strongest closest to their source, and their strength diminishes rapidly as we move away from the source.

The level of a magnetic field depends on the amount of the current (measured in amps), and decreases rapidly once we move away from the source.

Typical magnetic field measurements associated with Endeavour Energy's activities and assets given the required easement widths, safety clearances etc. and having a maximum voltage of 132,000 volt / 132 kV, will with the observance of these separation distances not exceed the recommended magnetic field public exposure limits.

- **Vegetation Management**

The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure (including any new electricity infrastructure required to facilitate the proposed development). Larger trees should be planted well away from electricity infrastructure and even with underground cables, be installed with a root barrier around the root ball of the plant.

Landscaping that interferes with electricity infrastructure could become a potential safety risk, restrict access, reduce light levels from streetlights or result in the interruption of supply may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section

48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

- Dial Before You Dig

Before commencing any underground activity the applicant is required to obtain advice from the *Dial Before You Dig 1100* service in accordance with the requirements of the *Electricity Supply Act 1995* (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

- Public Safety

Workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

<http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures>.

- Emergency Contact

In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note the Emergencies Telephone is 131 003 which can be contacted 24 hours/7 days. Endeavour Energy's contact details should be included in the any risk or safety management plan.

I appreciate that not all the foregoing issues may be directly or immediately relevant or significant to the Development Application. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified above in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

With the current COVID-19 health risk, as many as possible of Endeavour Energy staff are working from home. As a result there is only a small contingent located at the Huntingwood head office for essential operations. Although working from home, access to emails and other internal stakeholders is now somewhat limited and as a result it may take longer than usual to respond to enquiries. Thank you for your understanding during this time.

Kind regards
Cornelis Duba
Development Application Specialist
Network Environment & Assessment
M: 0455 250 981
E: cornelis.duba@endeavourenergy.com.au
51 Huntingwood Drive, Huntingwood NSW 2148
www.endeavourenergy.com.au