

CENTRAL COAST COUNCIL

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number	DA59526/2020
Delegation level	Delegated
Property Lot & DP	LOT: 334 DP: 9206
Property Address	66 Tramway Road NORTH AVOCA NSW 2260
Site Area	797 m ²
Zoning	R2 LOW DENSITY RESIDENTIAL
Proposal	Swimming Pool In-ground - Concrete
Application Type	Development Application - Local
Application Lodged	17/09/2020
Applicant	Knight Mapleton Design Partners
Estimated Cost of Works	\$ 40,000
Notified Only	23 September 2020 to 14 October 2020
Submissions	one (1)
Disclosure of Political Donations & Gifts	No
Recommendation	Approval, subject to conditions

Assessment

This application has been assessed using the heads of consideration specified under Section 4.15 of the Environmental Planning & Assessment Act 1979, Council policies and adopted Management Plans.

Summary of Non Compliance

Policy	Clause / Description	% Variance
Gosford DCP 2013	3.1.3.1c (setback of pool from side boundary)	38%

Site & Surrounds

The site is located in a residential area and mapped as bush fire prone land on Council's maps. The proposal has been considered against the provisions of Planning for Bush Fire Protection with the appropriate BAL level being 12.5. However as the pool is a concrete structure, no specific requirements.



The Proposal

Proposed swimming pool

Applicable Planning Controls

The following planning policies and control documents are relevant to the development and were considered as part of the assessment.

Environmental Planning and Assessment Act 1979 - Section 4.15

Local Government Act 1993 - Section 89

State Environmental Planning Policy (Coastal Protection) 2018

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

Gosford Local Environmental Plan 2014

Gosford Development Control Plan 2013

Draft Environmental Planning Instruments

No draft Environmental Planning Instruments apply to this application.

Permissibility

The subject site is zoned R2 LOW DENSITY RESIDENTIAL

The proposed development is permissible in the zone with consent of Council.

State Environmental Planning Policies

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

The application is supported by a BASIX certificate which confirms the proposal will meet the NSW Government's requirements for sustainability, if built in accordance with the commitments in the certificate.

The proposal is considered to be consistent with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

State Environmental Planning Policy (Coastal Management) 2018

Gosford Local Environmental Plan 2014

The Gosford LEP 2014 was considered during assessment of this application. There are no variations in relation to the proposed development.

Zone R2 Low Density Residential

The objectives of the R2 zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is compatible with the desired future character of the zone.
- To encourage best practice in the design of low-density residential development.
- To promote ecologically, socially and economically sustainable development and the need for, and value of, biodiversity in Gosford.
- To ensure that non-residential land uses do not adversely affect residential amenity or place demands on services beyond the level reasonably required for low-density housing.

In this instance, it is considered that the proposal is consistent with the stated objectives of the zone and consistent with the principles of Ecologically Sustainable Development as specified within the Local Government Act 1993.

Gosford Development Control Plan 2013

Development Standard	Description	Required	Proposed	Compliance with Controls	Compliance with Objectives
3.1.3.1c - Side Setback	Side setback for lots greater than 12.5m wide required	0.9m	0.56m	No - see comments below	Yes - see comments below
	Side setback for lots up to 12.5m wide required				
	Side setback for lots less than 8m wide required				
	Side setback for carports required				
3.1.4.1 - Views				Yes	Yes
3.1.4.2 - Visual Privacy				Yes	Yes
3.1.6.1 - Earthworks	Earthworks maximum depth required	3m when more than 1m from boundary	2m more than 1m from boundary.	Yes	Yes
	Earthworks maximum fill required				
3.1.7.4 - Swimming Pools				No - see comments below	Yes - see comments below

3.1.3.1c Side Setback

The proposal is to construct a pool on a steeply sloping site. Due to the slope of the land the southern side of the pool will be above the ground level. The pool is located within an area of the site that will not impact considerably on the occupants amenity to the west. It is in close proximity to the neighbour garage and not near any bedrooms or outdoor living spaces. I support the variation to the setback requirements of the pool.

3.1.4.1 Views

The proposal is consistent with the objectives of Consideration of Views. The primary views and outlook from the existing neighbouring dwellings will not be substantially affected.

3.1.4.2 Visual Privacy

Minimal to nil impact on privacy considering the location, size and setbacks of the proposed habitable spaces and windows from allotment boundaries.

3.1.7.4 Swimming Pools

Variation to setback documented within Clause 3.1.3.1 c (setbacks) section of this report.

6.3 Erosion Sedimentation Control

Appropriate siltation control to be conditioned.

6.4 Geotechnical Requirements For Development Applications

The location of the pool is within a high slip area. It is noted that piling will be required and the extent of displacement of existing ground levels is minimal. The structural engineer will address piers of the pool to an acceptable strata at the CC stage of the project.

6.7 Water Cycle Management

A water tank for the pool is not considered to be a justified due to the minimal area on the site to water plants and the small size of the pool.

7.2 Waste Management

Waste Management Plan has been submitted. A condition has been included in the development consent.

Planning Agreements

The proposed development is not subject to a planning agreement or draft planning agreement.

Development Contribution Plan

The proposed development is a development type that is not subject to S94 development contributions under the Contribution Plan. Therefore, no contributions are applicable.

Referrals

Internal Referral Body	Comments
Trees	Supported, without conditions

Political Donations

During assessment of the application there were no political donations declared by the applicant, applicant's consultant, owner, objectors and/or residents.

Public Submissions

One (1) public submission was received in relation to the application. Those issues associated with the key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within Section 4.15 of the Environmental Planning and Assessment Act 1979.

A summary of the submission is detailed below.

1. A part of the SEE contains an incorrect property address.

Comment - The applicant has advised that this is a small typing error, however the SEE does relate and takes into account the specifics of this proposed development.

Conclusion

This application has been assessed against the heads of consideration of Section 4.15 of the Environmental Planning &

Assessment Act 1979 and all relevant instruments and policies. The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development. Subject to the imposition of appropriate conditions, the proposed development is not expected to have an adverse social or economic impact. It is considered that the proposed development will complement the locality and meet the desired future character of the area.

Accordingly, the application is recommended for **approval** pursuant to Section 4.16 of the Environmental Planning and Assessment Act.

Plans for Stamping

Amended Plans, CM9 Doc No. D14253766

Supporting Documents for Binding with consent

Nil

Recommendation

- A. Council as consent authority grant consent to the development application as detailed in the body of this report, subject to the conditions attached.
- B. In accordance with Section 4.53(1) of the Environmental Planning & Assessment Act 1979, this consent shall be valid for a period of five (5) years.
- C. The objector(s) be notified of Council's decision.

Recommendation:	Approval, subject to conditions
Assessing Officer:	Stephen Goodworth Building Surveyor
Recommendation Reviewed by:	Grant Killen Peer Review Complete - Principal

Conditions

1. PARAMETERS OF THIS CONSENT

1.1 Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

Architectural Plans by: KM Design partners and Halcrow Engineering

Drawing	Description	Sheets	Issue	Date
19-1291	site plan	1	a	4/8/2019
20.01.017	pool plan	2	-	15/7/20

- 1.2 Carry out all building works in accordance with the National Construction Code Series, Building Code of Australia, Volume 1 and 2 as appropriate.

2. PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE

- 2.1 All conditions under this section must be met prior to the issue of any Construction Certificate.
- 2.2 No activity is to be carried out on-site until the Construction Certificate has been issued, other than:
- Site investigation for the preparation of the construction, and / or
 - Implementation of environmental protection measures, such as erosion control and the like that are required by this consent
 - Demolition

3. PRIOR TO COMMENCEMENT OF ANY WORKS

- 3.1 All conditions under this section must be met prior to the commencement of any works.
- 3.2 Appoint a Principal Certifier for the building work:
- The Principal Certifier (if not Council) is to notify Council of their appointment and notify the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work no later than two (2) days before the building work commences.
 - Submit to Council a Notice of Commencement of Building Work form giving at least two (2) days' notice of the intention to commence building work. The forms can be found on Council's website:
www.centralcoast.nsw.gov.au

- 3.3** Erect a sign in a prominent position on any work site on which building, subdivision or demolition work is being carried out. The sign must indicate:
- The name, address and telephone number of the Principal Certifier for the work; and
 - The name of the principal contractor and a telephone number at which that person can be contacted outside of working hours; and
 - That unauthorised entry to the work site is prohibited
 - Remove the sign when the work has been completed.

- 3.4** Submit both a Plumbing and Drainage Inspection Application, with the relevant fee, and a Plumbing and Drainage Notice of Work in accordance with the Plumbing and Drainage Act 2011 (to be provided by licensed plumber). These documents can be found on Council's website at: www.centralcoast.nsw.gov.au

Contact Council prior to submitting these forms to confirm the relevant fees.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage). This condition does not apply to swimming pool plumbing that does not physically connect / break into the sewer system.

- 3.5** Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:
- erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
 - diverting uncontaminated run-off around cleared or disturbed areas, and
 - preventing the tracking of sediment by vehicles onto roads, and
 - stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot
- 3.6** Notify the intention to commence works by giving written notice to the owner of the adjoining property affected by the proposed excavation and/or structural protective works. The required notice must be accompanied by details of the proposed work at least seven (7) days prior to the commencement of proposed excavation and/or structural protection works.
- 3.7** Provide certification to the Principal Certifier that the structural engineer's details have been prepared in accordance with the written recommendations of a qualified and experienced geotechnical engineer.

4. DURING WORKS

- 4.1** All conditions under this section must be met during works.
- 4.2** Carry out construction or demolition works during the construction phase of the development only between the hours as follows:
- 7.00am and 5.00pm Monday to Saturday

No construction or demolition works associated with the development are permitted to be carried out at any time on a Sunday or a public holiday.

- 4.3** During the construction phase of the development, if any Aboriginal object (including evidence of habitation or remains), is discovered during the course of the work:
- a. All excavation or disturbance of the area must stop immediately in that area, and
 - b. The Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the National Parks and Wildlife Act 1974.

Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.

- 4.4** Implement and maintain all erosion and sediment control measures at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 4.5** Keep a copy of the stamped approved plans on-site for the duration of site works and make the plans available upon request to either the Principal Certifier or an officer of Council.
- 4.6** Notify Council when plumbing and drainage work will be ready for inspection(s) and make the work accessible for inspection in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

- 4.7** Place all building materials, plant and equipment on the site of the development during the construction phase of the development so as to ensure that pedestrian and vehicular access within adjoining public roads, footpaths and reserve areas, is not restricted and to prevent damage to public infrastructure. Further, no construction work is permitted to be carried out within the road reserve unless the works are associated with a separate approval issued under the provisions of the *Roads Act 1993*.
- 4.8** Re-use, recycle or dispose of all building materials in accordance with the Waste Management Plan submitted with the subject application.
- 4.9** Erect or install prior to the swimming pool being filled with water all the required swimming pool safety barriers and gates in accordance with the approved plans and specifications and the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulations 2018* and Australian Standard AS 1926.1-2012 including the display of an approved sign regarding pool safety and resuscitation techniques that contains all of the following information:
- “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”
 - “POOL GATES MUST BE KEPT CLOSED AT ALL TIMES”
 - “KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900mm CLEAR OF THE POOL FENCE AT ALL TIMES” and
 - A simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults)
- 4.10** Do not fill the swimming pool with water until the common boundary fence forming part of the pool enclosure has been installed with a minimum height of 1.8 metres when measured inside the pool enclosure in accordance with the provisions of Australian Standard AS 1926.1 2012. The maintenance and effectiveness of the fence is the responsibility of the pool owner whilst ever the pool exists.

Alternatively, the pool must be fully enclosed by swimming pool safety fencing complying with the provisions of Australian Standard AS 1926.1-2012 in lieu of any boundary fencing.

- 4.11** Dispose filter backwash and overflow to the sewer. The sewer connection must be completed prior to the filling of the pool with water and in a manner that will not cause a nuisance, or where sewer is not available, the disposal of filter backwash must be discharged into a rubble absorption trench to the satisfaction of the Principal Certifier.
- 4.12** No fill other than that as indicated within the approved plans is permitted to be placed upon the site.

5. PRIOR TO ISSUE OF ANY OCCUPATION CERTIFICATE

- 5.1 All conditions under this section must be met prior to the issue of any Occupation Certificate.
- 5.2 Submit a Certificate of Compliance for all plumbing and drainage work and a Sewer Service Diagram showing sanitary drainage work (to be provided by licensed plumber) in accordance with the Plumbing and Drainage Act 2011.

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).

6. ONGOING OPERATION

- 6.1 Insulate and / or isolate the motor, filter, pump and all sound producing equipment or fitting associated with or forming part of the pool filtering system so as not to create an offensive noise to the occupants of the adjoining premises as defined in the *Protection of the Environment Operations Act 1997*.

7. PENALTIES

- 7.1 Failure to comply with this development consent and any condition of this consent may be a criminal offence. Failure to comply with other environmental laws may also be a criminal offence.

Where there is any breach Council may without any further warning:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent, and/or
- Seek injunctions/orders before the courts to retain and remedy any breach.

Warnings as to Potential Maximum Penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and / or custodial sentences for serious offences.

ADVISORY NOTES

- Discharge of sediment from a site may be determined to be a pollution event under provisions of the *Protection of the Environment Operations Act 1997*. Enforcement action may commence where sediment movement produces a pollution event.
- The following public authorities may have separate requirements in the following aspects:
 - a. Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments
 - b. Jemena Asset Management for any change or alteration to the gas line infrastructure
 - c. Ausgrid for any change or alteration to electricity infrastructure or encroachment within transmission line easements
 - d. Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure
 - e. Central Coast Council in respect to the location of water, sewerage and drainage services
- Carry out all work under this Consent in accordance with SafeWork NSW requirements including the *Workplace Health and Safety Act 2011 No 10* and subordinate regulations, codes of practice and guidelines that control and

regulate the development industry.

- Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

- Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800 810 443.

- Install and maintain backflow prevention device(s) in accordance with Council's WS4.0 Backflow Prevention Containment Policy. This policy can be found on Council's website: www.centralcoast.nsw.gov.au

This condition only applies if installation / alteration of plumbing and / or drainage works proposed (excludes stormwater drainage).