

appendix f - dcp variation - swimming pools in building line

Request for Variation to a Development Control and Supporting Information

This request is to accompany a development application lodged with Council where the development does not meet the development control(s) contained with the Richmond Valley Development Control Plan (RVDCP) 2021, and a variation to such control(s) is sought.

Application of the DCP and Variations

Under the *Environmental Planning & Assessment Act 1979*, Development Control Plans (DCP's) are required to be applied flexibly, and consent authorities are required to allow for alternate solutions to DCP requirements so that otherwise permissible development may be carried out. The role of the DCP is to give effect to an environmental planning instrument (EPI) by supporting the aims of the instrument, the range of permitted development under the EPI and the objectives of applicable land use zones.

Council will consider variations to the development controls set out in the DCP where a proposed development can otherwise demonstrate that it achieves the applicable planning objectives. Council will consider variations to the DCP provisions as set out below:

- a. Where a proposal does not comply with a particular development control, applicants may propose an alternative solution. In some circumstances, variations can produce improved and innovative solutions for particular site.
- b. A written variation request must:
 1. Identify the development control that is to be varied and detail the extent of variation proposed;
 2. Identify the general and/or specific objectives of that control and how the variation complies with the objectives;
 3. Justify why the specific provisions of the policy do not make appropriate provisions with regard to the subject application; and
 4. Demonstrate why compliance with the provisions of this DCP is unreasonable or unnecessary in the particular circumstances of the case.

Note: Variations to a development control(s) will only be considered where the specific development objective can be met.

The following section is required to be completed as part of any development application where a variation is sought to a development control(s) contained within the RVDCP 2021. Alternatively, the listed questions may be addressed within a Statement of Environmental Effects (SEE) document lodged with the development application. Further documentation may be attached to support your submission.

1. What is the development control(s)? (specify)

The proposed variation relates to the 2 x in-ground swimming pools (ancillary structures) being situated within the building line to Paddon Street, viz:

Part A-6.1.7 – Street Setbacks for Detached Ancillary Development

Street setbacks for all other ancillary development (excluding garages and semi enclosed carports) are to be 6.0m to a primary road and/or 3.0m to a secondary or parallel road.

2. Provide details of the extent of variation (i.e. what is the non-compliance? Is it minor or extensive? Percentage of variation between your proposal and the development control)

The proposed variations are considered to be such that when assessed on merit, are not significant and are not such that can readily be reported on a numerical or percentage basis.

3. What are the objectives of the development control(s)?

Street Setbacks for Detached Ancillary Development:

- (a) Ancillary development is consistent with the desired character and setting within the street.*
- (b) Vehicle parking structures do not dominate the streetscape.*
- (c) To achieve the general objectives for ancillary development.*

Overall Objectives for Ancillary Development:

- (1) Balance the ability of the individual residents to erect ancillary structures which contribute to their enjoyment of their property while protecting the amenity and acoustic and visual privacy of neighbours.*
- (2) Ensure that ancillary structures are compatible with the established character, scale and setting of the locality.*
- (3) Minimise the potential environmental impacts of ancillary development.*
- (4) Manage the cumulative impact of ancillary development, particularly the visual impact when viewed from the public domain and neighbouring properties.*
- (5) Ensure new ancillary development minimises overshadowing, view loss and visual intrusion for neighbouring properties.*

4. How does the proposed variation comply with those objectives listed above?

The proposed swimming pools and pool surrounds:

- have been fully integrated into the overall design and layout of the new dwellings
- have been situated to maximise the northern aspect of the subject land and provide optimum solar access opportunities
- will provide a significant contribution to the amenity and enjoyment of the new dwellings and will not have any adverse impacts on the amenity, acoustic and/or visual privacy of any neighbours – they are situated on the northern side of the new dwellings and front Paddon Street and are not proximate to any adjacent dwellings on adjoining properties
- do not comprise/relate to a vehicle parking structure and will not dominate the streetscape and will not impact or comprise on-site car parking or access to/from the subject land and dual occupancy dwellings
- are compatible with and will not adversely impact or compromise the character, scale and setting of the locality
- will not have any adverse environmental impacts
- will not be highly visible in the local landscape or streetscape
- will not have any adverse visual impacts when viewed from the public domain and/or neighbouring properties
- will not resulting in any overshadowing, view loss or visual intrusion of any neighbouring properties
- will not be a dominant built element in the streetscape
- will provide a high level/sense of territory privacy, noise reduction, safety and security for residents
- will not have any adverse impacts on the safe movement of vehicles and/or pedestrians

5. Please provide justification/reasoning as to why the development control(s) does not make specific provision in relation to your proposal/does not enable you to achieve the outcome you are seeking?

The swimming pools have been situated in a location that:

- fronts Paddon Street and is physically and spatially removed from any adjacent lots
- has a north aspect and will receive optimum solar access
- adjoins/forms part of the private open space area for the new dwellings, being contiguous with the covered BBQ area and lawns
- will provide significantly increased amenity and enjoyment for future residents
- will not have any adverse impacts on the natural or man-made environment

6. Demonstrate why compliance with the development control(s) is unreasonable or unnecessary in your particular circumstance.

Due to the long boundary of the subject land running east-west and fronting Paddon Street, it is highly desirable to site the pools so that they face the road and will receive optimum solar access and are not proximate to any adjoining lots.

Further, the pools will form an integral component of the private open space and will not be highly visible in the local landscape or streetscape.

It is submitted that the ancillary structure controls are intended to relate more to buildings and structures that are above the ground and are not expressly relevant to in-ground swimming pools.

7. Any other considerations?

There are a number of swimming pools within the front building setback on the following properties in Evans Head:

- 53 Beech Street
- 2 Booyong Street
- 4 Booyong Street
- 75 Heath Street
- 4 Flame Street
- 3 Seamist Land
- 21 Terrace Street
- 2 Ocean Street
- 4 Ocean Street

Subject Land and Applicant Details

Subject Land: Lot 8 DP 1290626, No. 22 George Street, Broadwater

Applicant: Ardill Payne & Partners – Paul Snellgrove – Ardill Payne & Partners

Date: 15th March 2024