

Ref: Rya\_J02-23\_S4.55\_01

12 March 2025

The General Manager  
City of Canterbury Bankstown Council  
PO Box 8  
BANKSTOWN NSW 1885

# STATEMENT OF ENVIRONMENTAL EFFECTS

## SECTION 4.55(1A) MODIFICATION APPLICATION 8b WANSTEAD AVENUE EARLWOOD

To whom it may concern,

This application has been prepared pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent DA-892/2024 relating to land at **8b Wanstead Avenue Earlwood** (the site).

### 1.1 Consent proposed to be modified

Development consent DA-892/2024 was granted, under delegation by Council, on 06 November 2024 for a proposed new swimming pool and alterations and additions to an existing two storey dwelling. A construction certificate has not yet been issued.

### 1.2 Proposed modifications

The modification proposes the following amendments.

- Deletion of the previously approved in-ground swimming pool to be replaced with a prefabricated above-ground swimming pool located in approximately the same location.
- Deletion of the previously approved Cabana
- Modifications to the existing rear boundary fence
- Reconfigured floor plan to previously approved extension to the east of the existing dwelling.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act.

### 1.3 Justification for modifications

The proposed modifications can be justified for the following reasons:

#### Swimming Pool

- Although the proposed pool is located above ground, it is also setback a considerable distance from the neighbouring properties to the east and west. The pool will be set back a minimum distance of 17m from the wall of the nearest neighbouring dwelling (No 13 Bankside Avenue). Additional privacy is also provided by a thick cluster of existing mature trees that are located along the eastern and western boundaries at the rear yard between the properties (refer to figure 1).

architect: Sandy Martikas (Registration No. 9783)

STUDIO 3DQ - Architecture 34/60-66 Village Drive BREAKFAST POINT NSW 2137

t: 0409 989 669

e: info@studio3dq.com.au

ABN: 23991812162

- The modifications have been sought by the owners primarily for cost reasons with the proposed pool being considerably more cost effective to build due to the fact that the need for excavation has been minimised, and the prefabricated nature of the new pool has eliminated the need for a considerable amount of concrete construction.
- The site is located within a "Proximity Area for Coastal Wetlands" on the Coastal Wetlands & Littoral Rainforest Area Map outlined on the NSW Planning Portal spatial viewer and the reduction in excavation and soil disturbance as a result of the modified proposal will be significantly beneficial to the environmentally sensitive site.
- The proposed pool is compliant with the Australian Standard AS 1926.1-2012, Swimming Pool regulations 2008 and Swimming Pools Act 1992.



**Figure 1:** Location of proposed swimming pool

#### **Cabana**

- The deletion of the previously approved Cabana will result in a reduction to the cost of construction as well as provide a greater amount of deep soil landscaped area within the rear yard. This will also benefit the site in terms of overland flow by providing a passage to the eastern side of the site (that was previously occupied by the Cabana) to allow surface water to naturally drain to the rear of the property.

### **Rear Boundary Fence**

- The existing rear boundary fence was previously approved to be replaced with a new masonry fence with metal infill vertical bars and was designed to be compliant with the pool safety regulations and standards. The proposed modifications include retaining the existing masonry fence and adding new infill breezeway brickwork to the existing pier and base and a modified gate. The configuration of the proposed modified pool and associated pool barriers means that the rear fence is no longer required to be pool compliant. The rear fence will however provide safety and security for the occupants of the dwelling as well as providing an improved aesthetic quality to the bounding public pathway and river foreshore.

### **Reconfigured Floor Plan**

- The ground floor extension to the east of the dwelling has been modified including internal alterations and a slight reduction to the setback along the eastern boundary by 150mm resulting in a side setback of 1.35m to the Porch landing. The side setback of the proposed extension is compliant with Clause 2.6 (C2) of the DCP. A ramp has been added as part of the modifications to allow for ease of access to the drying area located nearby. Floor levels of the extension are unchanged and match the approved levels. No changes are proposed to the external materials, finishes and colours.

### **Flood Planning**

- The site is identified on councils maps as being located in a flood planning area. The estimated 100-year ARI flood level at the site is RL 2.7m AHD. Councils Stormwater System report recommends that habitable floor levels of the proposal are to be at least 500mm above the 100-year ARI flood level at the site adjacent to the proposed buildings (ie RL3.2 AHD). The proposal provides an RL at ground level of 3.61 AHD (habitable areas) and 2.89 AHD (non-habitable areas) for the dwelling which is unchanged and matches the approved proposal.

The property has a natural ground fall from the south (Wanstead Ave) towards the rear. The proposed pool is located at the rear and generally within the same location as the approved swimming pool. The previously approved in-ground swimming pool was located approximately 500mm (to the top of pool level) above natural ground. The modified pool will be a prefabricated above ground pool with a top of pool level higher than the approved pool however the overall footprint of the modified pool is significantly smaller than the previous proposal. The proposed pool is also located directly behind the footprint of the existing dwelling and is generally contained within the width of the dwelling therefore minimising any encroachment to the eastern and western side setback areas that currently provide overland flow towards the rear of the property. The proposed scheme includes the deletion of the approved Cabana and concrete pool surround which will result in a considerable reduction of hardstand area to the rear yard. This will also benefit the site in terms of overland flow by providing a natural deep soil passage to the eastern side of the site (that was previously occupied by the Cabana) to allow surface water to naturally drain to the rear of the property.

The proposed above ground swimming pool also results in a considerable reduction in excavation and soil disturbance to the rear yard.

#### 1.4 Amendments to DCP controls

The proposed amendments result in the following adjustments in terms of compliance with council's LEP and DCP controls:

Clause	Control	Previous Proposal	Modified Proposal
<b>DCP 2023 – Chapter 5 (Residential Accommodation)</b>			
2.2 – Site Coverage (C1)	Max 380m <sup>2</sup> building footprint	294.53m <sup>2</sup>	273.9m <sup>2</sup>
	Max 60m <sup>2</sup> floor area of all outbuildings	8.4m <sup>2</sup> (Cabana)	No outbuildings
	Max 40% site coverage	26% site coverage	26.2% site coverage
2.3 – Landscaping (C1 & C2)	Min 25% of site to be deep soil area (with min 2.5m dimension)	25.63% of the site (excluding right of carriageway)	27.6% of the site (excluding right of carriageway)
2.6 – Setbacks (C2)	Min 900mm side setback	1.5m min	1.35m min
2.14 – Outbuildings and Swimming Pools (C1)	Max 1 Outbuilding	1 Outbuilding (Cabana)	No Outbuildings
2.14 – Outbuildings and Swimming Pools (C14)	Min 1m side or rear setback to swimming pool	2.63m min	3.0m min

The proposed modifications do not result in any other adjustments to the previously approved provisions relating to council's LEP and DCP controls.

#### 1.5 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if "it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)".

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- relates only to a minor part of the overall development.
- does not change the intended use approved for the site; and
- the modifications do not generate significant additional environmental impact.

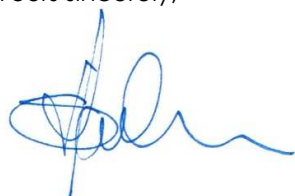
The proposed development as modified remains consistent with the relevant general and site-specific provisions of the Canterbury Bankstown LEP 2023 and DCP 2023.

#### 1.6 Conclusion

In summary, the proposal consists of minor modifications. The development, as proposed to be modified, is substantially the same development as that originally approved, and the proposed modification is of minimal environmental impact.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



STUDIO 3DQ - ARCHITECTURE  
Sandy Martikas (Architect - Registration No. 9783)