

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2012/0863 |
|----------------------------|-------------|

|                                           |                                                                  |
|-------------------------------------------|------------------------------------------------------------------|
| <b>Responsible Officer</b>                | Daniel Milliken                                                  |
| <b>Land to be developed (Address):</b>    | Lot 15 DP 229354 , 4 Rupari Place BELROSE NSW 2085               |
| <b>Proposed Development:</b>              | Alterations and Additions to a dwelling house                    |
| <b>Zoning:</b>                            | LEP - Land zoned R2 Low Density Residential                      |
| <b>Development Permissible:</b>           | Yes                                                              |
| <b>Existing Use Rights:</b>               | No                                                               |
| <b>Consent Authority:</b>                 | Warringah Council                                                |
| <b>Land and Environment Court Action:</b> | No                                                               |
| <b>Owner:</b>                             | David Edwin Emery<br>Mr Mark Anthony Emery<br>Bettina Anne Emery |
| <b>Applicant:</b>                         | Mr Mark Anthony Emery                                            |

|                                 |                                               |
|---------------------------------|-----------------------------------------------|
| <b>Application lodged:</b>      | 26/07/2012                                    |
| <b>Application Type</b>         | Local                                         |
| <b>State Reporting Category</b> | Residential - Alterations and additions       |
| <b>Notified:</b>                | 31/07/2012 to 15/08/2012                      |
| <b>Advertised</b>               | Not Advertised in accordance with A.7 of WDCP |

|                                 |           |
|---------------------------------|-----------|
| <b>Estimated Cost of Works:</b> | \$ 22,500 |
|---------------------------------|-----------|

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

### SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - A.5 Objectives

Warringah Development Control Plan - B5 Side Boundary Setbacks  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - C3 Parking Facilities  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - D8 Privacy

## RECOMMENDATION

Approval

## SITE DESCRIPTION

|                               |                                                    |
|-------------------------------|----------------------------------------------------|
| <b>Property Description:</b>  | Lot 15 DP 229354 , 4 Rupari Place BELROSE NSW 2085 |
| <b>Approximate Site Area:</b> | 778 SqM                                            |

Map:



## SITE HISTORY

The dwelling was constructed under DA2001/0842 which was approved 16 October 2001.

The swimming pool was constructed under DA2001/1058 which was approved 31 August 2001.

Retaining walls and stormwater works were constructed under DA2002/0727 which was approved on 28 June 2002.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal includes:

- The construction of a carport over the existing driveway able to cover four cars and with a front setback of 5 metres.
- The construction of two first floor balconies. One on the northern elevation from bedrooms 2 and 3 and the other on the southern side of bedroom 1.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

## **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

| <b>Section 79C 'Matters for Consideration'</b>                                                                           | <b>Comments</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument                                             | See discussion on “Environmental Planning Instruments” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument                                      | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Section 79C (1) (a)(iii) – Provisions of any development control plan                                                    | Warringah Development Control Plan applies to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Section 79C (1) (a)(iiia) – Provisions of any planning agreement                                                         | None applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This Clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This Clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> |

| Section 79C 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                   | <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This Clause is not relevant to this application.</p>                         |
| Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 79C (1) (c) – the suitability of the site for the development                                                                                                             | The site is considered suitable for the proposed development.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs                                                                                             | See discussion on “Public Exhibition” in this report.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Section 79C (1) (e) – the public interest                                                                                                                                         | No matters have arisen in this assessment that would justify the refusal of the application in the public interest.                                                                                                                                                                                                                                                                                                                                                                                |

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application Council received no submissions

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

| Internal Referral Body | Comments                                                                                                                      |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Development Engineers  | Development Engineers have reviewed the proposal and raise no objections to the proposal subject to the following conditions. |
| Landscape Officer      | No objections to the proposed works.                                                                                          |

| External Referral Body | Comments                                                                                                                                                                                             |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended. |

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## **Warringah Local Environment Plan 2011**

|                                                                                        |     |
|----------------------------------------------------------------------------------------|-----|
| Is the development permissible?                                                        | Yes |
| After consideration of the merits of the proposal, is the development consistent with: |     |
| aims of the LEP?                                                                       | Yes |
| zone objectives of the LEP?                                                            | Yes |

#### Principal Development Standards

| Standard                                                                                 | Requirement | Proposed | Complies |
|------------------------------------------------------------------------------------------|-------------|----------|----------|
| Minimum subdivision lot size:                                                            | N/A         | N/A      | N/A      |
| Height of Buildings:                                                                     | 8.5m        | 5m       | Yes      |
| Rural Subdivision:                                                                       | N/A         | N/A      | N/A      |
| No Strata Plan or Community Title Subdivisions in certain rural and environmental zones: | N/A         | N/A      | N/A      |

#### Compliance Assessment

| Clause                                                               | Compliance with Requirements |
|----------------------------------------------------------------------|------------------------------|
| 4.3 Height of buildings                                              | Yes                          |
| 5.9 Preservation of trees or vegetation                              | Yes                          |
| 5.9AA Trees or vegetation not prescribed by development control plan | Yes                          |
| 6.2 Earthworks                                                       | Yes                          |
| 6.4 Development on sloping land                                      | Yes                          |

#### Warringah Development Control Plan

##### Built Form Controls

| Built Form Control                                  | Requirement | Proposed                                    | Complies  |
|-----------------------------------------------------|-------------|---------------------------------------------|-----------|
| B3 Side Boundary Envelope                           | 4m          | No encroachments                            | Yes       |
| B5 Side Boundary Setbacks                           | 0.9m        | Carport - 500mm<br>Northern Balcony<br>3.3m | No<br>Yes |
| B7 Front Boundary Setbacks                          | 6.5m        | 5m                                          | No        |
| B9 Rear Boundary Setbacks                           | 6m          | Rear balcony 6.1m                           | Yes       |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40%         | 12.8%                                       | No        |

#### Compliance Assessment

| Clause                    | Compliance with Requirements | Consistency Aims/Objectives |
|---------------------------|------------------------------|-----------------------------|
| A.5 Objectives            | No                           | Yes                         |
| B1 Wall Heights           | Yes                          | Yes                         |
| B3 Side Boundary Envelope | Yes                          | Yes                         |
|                           |                              |                             |

| Clause                                           | Compliance with Requirements | Consistency Aims/Objectives |
|--------------------------------------------------|------------------------------|-----------------------------|
| R2 Side Boundary Envelope Exceptions             | Yes                          | Yes                         |
| B5 Side Boundary Setbacks                        | No                           | Yes                         |
| Side Setbacks - R2                               | No                           | Yes                         |
| Side Setback Exceptions - R2                     | No                           | Yes                         |
| B7 Front Boundary Setbacks                       | No                           | Yes                         |
| R2 - All other land in R2 Zone                   | No                           | Yes                         |
| B9 Rear Boundary Setbacks                        | Yes                          | Yes                         |
| All other land under R2                          | Yes                          | Yes                         |
| Rear Boundary Exceptions - R2                    | Yes                          | Yes                         |
| C2 Traffic, Access and Safety                    | Yes                          | Yes                         |
| C3 Parking Facilities                            | No                           | Yes                         |
| C4 Stormwater                                    | Yes                          | Yes                         |
| C5 Erosion and Sedimentation                     | Yes                          | Yes                         |
| C7 Excavation and Landfill                       | Yes                          | Yes                         |
| C8 Demolition and Construction                   | Yes                          | Yes                         |
| C9 Waste Management                              | Yes                          | Yes                         |
| Mixed Use Premises (Residential/Non-Residential) | Yes                          | Yes                         |
| D1 Landscaped Open Space and Bushland Setting    | No                           | Yes                         |
| D2 Private Open Space                            | Yes                          | Yes                         |
| D3 Noise                                         | Yes                          | Yes                         |
| D5 Orientation and Energy Efficiency             | Yes                          | Yes                         |
| D6 Access to Sunlight                            | Yes                          | Yes                         |
| D7 Views                                         | Yes                          | Yes                         |
| D8 Privacy                                       | No                           | Yes                         |
| D9 Building Bulk                                 | Yes                          | Yes                         |
| D10 Building Colours and Materials               | Yes                          | Yes                         |
| D11 Roofs                                        | Yes                          | Yes                         |
| D12 Glare and Reflection                         | Yes                          | Yes                         |
| D14 Site Facilities                              | Yes                          | Yes                         |
| D20 Safety and Security                          | Yes                          | Yes                         |
| D22 Conservation of Energy and Water             | Yes                          | Yes                         |
| E1 Private Property Tree Management              | Yes                          | Yes                         |
| E2 Prescribed Vegetation                         | Yes                          | Yes                         |
| E6 Retaining unique environmental features       | Yes                          | Yes                         |
| E10 Landslip Risk                                | Yes                          | Yes                         |

#### Detailed Assessment

### **A.5 Objectives**

The development is considered against the underlying objectives of the DCP as follows:

- *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.*
- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.*
- *To inspire design innovation for residential, commercial and industrial development.*
- *To provide a high level of access to and within development.*
- *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.*
- *To achieve environmentally, economically and socially sustainable development for the community of Warringah.*

Comment:

The proposed carport does not comply with the front or side setback controls. In addition, a large parapet proposed for the carport would front the street. While the breach of the front and side setback controls are considered acceptable as discussed below in Clauses B5 Side Boundary Setbacks and B7 Front Boundary Setbacks, the inclusion of the parapet will not contribute positively to the street and it is therefore recommended to be deleted.

As discussed in Clause D8 Privacy below, the northern first floor balcony will look directly over the neighbouring private open space and the inclusion of a privacy screen is impractical. Therefore the northern deck is recommended to be deleted.

The site currently contains approximately 12.8% landscaped open space in accordance with the control. The previous applications for the dwelling and swimming pool were approved with greater than 40% landscaped open space. Since that time it appears that illegal paving and an illegal pergola have resulted in a significant reduction in landscaped open space, however, as the carport will be positioned over the driveway and the small southern deck positioned between the pool paving and the dwelling, they would not contribute to a loss of landscaped open space and are therefore considered acceptable.

The suspected illegal works have been referred to Council's Development Compliance team for investigation.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979.

## **B5 Side Boundary Setbacks**

### Description of non-compliance

The carport is set back 500mm from the side boundary.

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying purpose (aim and / or objective) of the standard as follows:

- *To provide opportunities for deep soil landscape areas.*
- *To ensure that development does not become visually dominant.*
- *To ensure that the scale and bulk of buildings is minimised.*
- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*
- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

A landscaped strip has been provided between the carport and the boundary. With the removal of the parapet, as discussed in Clause B7 Front Boundary Setbacks below, and as a result of the slope of the land, the carport will not become visually dominant from the street or the neighbouring property to the south, the bulk will be minimised and adequate separation will be provided. No views will be affected by the proposal.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B7 Front Boundary Setbacks**

Description of non-compliance

The carport is positioned 5m from the front boundary.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying purpose (aim and / or objective) of the Control as follows:

- *To create a sense openness.*
- *To maintain the visual continuity and pattern of buildings and landscape elements.*
- *To protect and enhance the visual quality of streetscapes and public spaces.*
- *To achieve reasonable view sharing.*

Comment:

It is considered that the 5m front setback will maintain a sense of openness, however, the proposed parapet at the front of the carport will not maintain the pattern of buildings or protect and enhance the visual quality of the streetscape. In this regard, it is recommended that a condition be included in the consent that deletes the front facade of the carport and replaces it

with the same colourbond fascia and gutter as the remainder of the carport.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **C3 Parking Facilities**

#### Description of non-compliance

The proposed parapet on top of the carport will dominant the front facade and demonstrate visual bulk to the streetscape.

#### Merit consideration

With regard to the consideration of a variation, the development is considered against the underlying purpose (aim and / or objective) of the Control as follows:

- *To provide adequate off street carparking.*
- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*
- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

#### Comment:

As discussed in Clause B7 Front Boundary Setbacks above, the parapet would not have a minimal visual impact and would dominate the street frontage. Therefore it is recommended to be deleted and thus reduce the visual bulk presented to the streetscape.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **D1 Landscaped Open Space and Bushland Setting**

#### Description of non-compliance

The site has approximately 12.8% landscaped open space where the control requires a minimum of 40%.

#### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying purpose (aim and / or objective) of the Control as follows:

- *To enable planting to maintain and enhance the streetscape.*
- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*
- *To enhance privacy between buildings.*
- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*
- *To provide space for service functions, including clothes drying.*
- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

As discussed earlier in this report, while the site is deficient in the total amount of landscaped open space, the proposed works do not contribute to the deficiency. In this regard the proposal is acceptable, however, the suspected illegal works have been forwarded to Council's Development Compliance team for investigation.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **D8 Privacy**

### Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying purpose (aim and / or objective) of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To provide personal and property security for occupants and visitors.*

Comment:

The northern first floor balcony looks directly over the rear yard and private open space of the neighbouring property. Due to the orientation of this balcony, a privacy screen is impractical and therefore it is recommended that the northern balcony be deleted.

The southern balcony is small, faces the pool area and does not result in a privacy impact.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions, is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Warringah Section 94A Development Contribution Plan**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

The site has been inspected and the application assessed having regard to the provisions of the Environmental Planning and Assessment Act 1979 (and associated regulations), the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2011, Warringah Development Control Plan and the relevant codes and policies of Council.

In consideration of the proposal and the merit consideration the development the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the of the relevant EPIs
- Consistent with the objects specified in S.5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2012/0863 for Alterations and Additions to a dwelling house on land at Lot 15 DP 229354, 4 Rupari Place, BELROSE, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

| <b>Architectural Plans - Endorsed with Council's stamp</b> |              |                             |
|------------------------------------------------------------|--------------|-----------------------------|
| <b>Drawing No.</b>                                         | <b>Dated</b> | <b>Prepared By</b>          |
| Sheet 1 of 6                                               | 14.7.2012    | Drafting Decorative Designs |
| Sheet 2 of 6                                               | 14.7.2012    | Drafting Decorative Designs |
| Sheet 3 of 6                                               | 14.7.2012    | Drafting Decorative Designs |
| Sheet 4 of 6                                               | 14.7.2012    | Drafting Decorative Designs |
| Sheet 5 of 6                                               | 14.7.2012    | Drafting Decorative Designs |
| Sheet 6 of 6                                               | 14.7.2012    | Drafting Decorative Designs |

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

e) The development is to be undertaken generally in accordance with the following:

| <b>Landscape Plans - Endorsed with Council's stamp</b> |              |                             |
|--------------------------------------------------------|--------------|-----------------------------|
| <b>Drawing No.</b>                                     | <b>Dated</b> | <b>Prepared By</b>          |
| Landscape Plan                                         | 14.7.2012    | Drafting Decorative Designs |

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

### 3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy. )

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## **FEES / CHARGES / CONTRIBUTIONS**

### **4. Bonds**

#### **(a) Security Bond**

A bond (determined from cost of works) of \$500 and an inspection fee in accordance with Councils Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **5. Stormwater Disposal**

A drainage plan indicating all details relevant to the collection and disposal of stormwater from the proposed buildings and paved areas is to be provided. Stormwater shall be conveyed from the site to Rupari Place.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.  
(DACENCPC1)

**6. Trees and / or Landscaping**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

**Existing trees which must be retained**

All trees not listed as exempt or noxious in Warringah

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

**7. Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

[http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

**8. Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

**9. Plan Amendments**

The following amendments are to be made to the approved plans:

- The parapet on the western elevation of the carport is to be deleted and replaced with colorbond fascia or guttering similar to that around the other exposed edges of the carport.
- The northern balcony and associated access doors are to be deleted.

This is to be shown on plans submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that the development protects and enhances the visual quality of the streetscape and minimises amenity impacts on the neighbouring properties. (DACPLCPCC1)

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **10. Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

### **11. Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAEO3)

## **CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

### **12. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

**Note:** The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

**Signed**

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**Daniel Milliken, Development Assessment Officer**

The application is determined under the delegated authority of:

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**Phil Lane, Acting Development Assessment Manager**

**ATTACHMENT A**

| Notification Plan                                                                             | Title              | Date       |
|-----------------------------------------------------------------------------------------------|--------------------|------------|
|  2012/293339 | Plans Notification | 27/07/2012 |

**ATTACHMENT B**

No notification map.

**ATTACHMENT C**

| <b>Reference Number</b>                                                                         | <b>Document</b>                                         | <b>Date</b> |
|-------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------------|
|  2012/293333   | letter of advice regarding carport from Mark Emery - CD | 19/07/2012  |
|  2012/293335   | Report Statement of Environmental Effects - CD          | 20/07/2012  |
|  2012/292953   | Repor Geotechnical Assessment - CD                      | 24/07/2012  |
|  2012/293039   | Plans Existing on site detention tanic plans - CD       | 24/07/2012  |
|  2012/292914   | Report Waste management plan - CD                       | 24/07/2012  |
|  2012/292968   | Stormwater plan - CD                                    | 24/07/2012  |
|  2012/293232   | Site analysis plan                                      | 24/07/2012  |
|  2012/293229   | Landscape plan - CD                                     | 24/07/2012  |
|  2012/293346   | Survey plan - CD                                        | 24/07/2012  |
|  2012/292374   | invoice for ram applications - Mark Anthony Emery       | 26/07/2012  |
|  2012/292376  | DA Acknowledgement Letter - Mark Anthony Emery          | 26/07/2012  |
|  2012/293293 | Plan Section                                            | 27/07/2012  |
|  2012/293294 | Plans Elevation                                         | 27/07/2012  |
|  2012/293297 | Plans Ground                                            | 27/07/2012  |
|  2012/293301 | Plan Site                                               | 27/07/2012  |
|  2012/293339 | Plans Notification                                      | 27/07/2012  |
|  2012/293358 | Applicant Details                                       | 27/07/2012  |
|  2012/293360 | Development application form                            | 27/07/2012  |
|  2012/295122 | File Cover                                              | 31/07/2012  |
|  2012/295131 | Referral to AUSGRID - SEPP - Infrastructure 2007        | 31/07/2012  |
|  2012/298593 | Development Engineering Referral Response               | 03/08/2012  |
|  2012/314698 | Landscape Referral Response                             | 23/08/2012  |