

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2016/0333
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Responsible Officer:	Nick England
Land to be developed (Address):	Lot A DP 366859, 68 Carrington Parade CURL CURL NSW 2096
Proposed Development:	Modification of Development Consent DA2012/1492 granted for Demolition works and construction of a dwelling house swimming pool and fencing
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Troy Alexander Cortis Sondra Leanne Cortis Wahida Pridgen Richard Brent Pridgen
Applicant:	Wahida Pridgen Richard Brent Pridgen

Application lodged:	20/12/2016
Application Type:	Local
State Reporting Category:	Residential - Single new detached dwelling
Notified:	23/12/2016 to 23/01/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

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

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Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B1 Wall Heights

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D16 Swimming Pools and Spa Pools

SITE DESCRIPTION

Property Description:	Lot A DP 366859 , 68 Carrington Parade CURL CURL NSW 2096
Detailed Site Description:	The subject site consists of one (1) allotment located on the western side of Carrington Parade. The site is legally known as Lot A in DP 366859 (No.68) Carrington Parade. The site is regular in shape with a frontage of 9.16m along Carrington Avenue and a depth varying between 42.705m on the northern boundary and 45.72m along the southern boundary. The site has a surveyed area of 398.4m². The site is located with the R2 Low Density Residential zone and accommodates a single storey residential dwelling. Surrounding development consists of two storey residential dwellings to the north, south and west of the site. Public open space as part of Curl Curl Beach Reserve is to the east of the site. The site has a topography that slopes up from the frontage of the site with an easterly aspect. Eastern vegetation consists of small shrubs adjacent the rear (western) boundary and lawn areas in the front and rear of the site.

Map:



SITE HISTORY

Past development consents / applications on the site include:

C555/73: Application for "additions" approved 30 June 1973.

3043/85: Building application for "additions" (deck on eastern elevation of existing dwelling, front fence and pergola) approved on 19 November 1985.

DA2012/1492: Development consent granted for "Demolition works and construction of a dwelling house, swimming pool and fencing" on 8 May 2013.

PROPOSED DEVELOPMENT IN DETAIL

The application is made pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979 and seeks to modify the consent in the following manner:

- reduction in the area of basement excavation to the rear of the site by approximately 54m²;
- reduction in rear ground floor facade by 6m from the rear boundary;
- relocation of rear terrace a further 3.5m from the rear boundary;
- reduction in the rear 1st floor facade by 4.3m from the rear boundary;
- new window "W01" on ground floor of the southern elevation;
- reduced area of window "W04b" on ground floor of the southern elevation;
- deletion of window "W07" on north elevation; and
- deletion of in-ground swimming pool.

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 C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and 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 (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2012/1492, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2012/1492.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2012/1492 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control	No submissions were received in relation to this application.

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Section 96(2) - Other Modifications	Comments
plan, as the case may be.	

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
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)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent. <u>Clause 50(1A)</u> of the EP&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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, permits Council to request additional information and therefore consider the number of days taken in this assessment in light of this clause within the Regulations. However, no additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building

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Section 79C 'Matters for Consideration'	Comments
	(including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 98</u> of the EP&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 in the original consent. <u>Clause 98</u> of the EP&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 in the original consent. <u>Clause 143A</u> of the EP&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.
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	(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. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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	No Development Engineering objection is raised to the proposed MOD. No additional condition is required.
Landscape Officer	No objections to the proposed modification.
Natural Environment (Biodiversity)	Council's natural environment, biodiversity section raise no objections to the proposal.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.452057S_02 dated 12 December 2016).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	41
Thermal Comfort	Pass	Pass
Energy	40	44

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

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:

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- 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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.12m	8.12m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	7.7m on south elevation	No change	No
B3 Side Boundary Envelope	5m (north)	Breach of 0.25-0.5m (height) x 14.1m (length)	No change	No
	5m (south)	Breach of 0.4m-1m (height) x 22m (length)	No change	No
B5 Side Boundary Setbacks	0.9m (north)	1-2m	1-1.4m	Yes
	0.9m (south)	1-2m	1.2-2m	Yes
B7 Front Boundary Setbacks	6.5m	6.5-7.5m	6.5-7.5m	Yes
B9 Rear Boundary Setbacks	6m	6m	10.8m	Yes
D1 Landscaped Open Space and	40%	34%	35%	No

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Bushland Setting				
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***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	No	Yes
R2 Side Boundary Envelope Exceptions	Yes	Yes
Side Setbacks - R2	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
Rear Boundary Exceptions - R2	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction		
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B1 Wall Heights

The existing non-compliance with the Wall Height built form control (as detailed in the Built Form Controls DCP table), is located on the front portion of the approved dwelling.

This part of the dwelling is not the subject of the proposed modification. This non-compliance was

considered in the assessment of the original application and found to be consistent with the objectives of the control, despite the variation. Therefore no further assessment of the objectives is considered necessary and the proposed modification will not result in the application being in any way inconsistent with this control.

D1 Landscaped Open Space and Bushland Setting

The existing non-compliance with the Landscaped Open Space (LOS) control (as detailed in the Built Form Controls DCP table), will not be worsened by the proposed modification. In fact a slight increase in LOS (from 34 to 35%) is proposed

This non-compliance was considered in the assessment of the original application and found to be consistent with the objectives of the control, despite the variation. Therefore no further assessment of the objectives is considered necessary and the proposed modification will not result in the application being in any way inconsistent with this control.

Condition No.16 - Required Planting of the original consent contains a reference to a landscaping plan which is to be superseded by a new landscaping plan. Therefore it is recommended to delete this condition.

D16 Swimming Pools and Spa Pools

The proposed modification includes the deletion of the approved swimming pool. As such, the existing Condition No.18 - Swimming Pool Requirements is recommended to be deleted from the existing conditions of consent.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94 contributions were levied on the Development 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.

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.

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

- Consistent with the objectives of the DCP

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- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects 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 approval Modification Application No. Mod2016/0333 for Modification of Development Consent DA2012/1492 granted for Demolition works and construction of a dwelling house swimming pool and fencing on land at Lot A DP 366859,68 Carrington Parade, CURL CURL, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
01 Issue A	Dec 2016	Gartner Trovato
02 Issue A	Dec 2016	Gartner Trovato
03 Issue A	Dec 2016	Gartner Trovato
04 Issue A	Dec 2016	Gartner Trovato
05 Issue A	Dec 2016	Gartner Trovato

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No.452057S_02	12 December 2016	Gartner Trovato Architects
Report on Geotechnical Site Investigation No.2012-231-1	20 December 2016	Crozier Geotechnical Consultants

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
07 Issue A	Dec 2016	Gartner Trovato Architects

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

B. Delete Condition No.16 - Required Planting

C. Delete Condition No.18 - Swimming Pool Requirements

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

Nick England, Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

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ATTACHMENT A

Notification Plan	Title	Date
 2016/417108	Plans - Notification	20/12/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/418485	Notification Map	23/12/2016

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ATTACHMENT C

Reference Number	Document	Date
 2016/417104	Plans - Survey	23/07/2012
 2016/417117	Report - BASIX Certificate	12/12/2016
 2016/417113	Report - Statement of Environmental Effects	19/12/2016
 2016/417102	On-site Stormwater Detention Checklist	20/12/2016
 2016/417202	Plans - Schedule of Colours and Finishes	20/12/2016
 2016/417186	Plans - Internal	20/12/2016
 2016/417108	Plans - Notification	20/12/2016
 2016/417123	Report - Geotechnical	20/12/2016
 MOD2016/0333	68 Carrington Parade CURL CURL NSW 2096 - Section 96 Modifications - Section 96 (2) Environmental Impact	20/12/2016
 2016/412983	DA Acknowledgement Letter - Richard Brent Pridgen - Wahida Pridgen	20/12/2016
 2016/417095	Modification Application Form	22/12/2016
 2016/417098	Applicant Details	22/12/2016
 2016/417182	Plans - External	22/12/2016
 2016/417190	Plans - Certification of Shadow Diagrams with Plans	22/12/2016
 2016/417211	Plans - Master Set	22/12/2016
 2016/418485	Notification Map	23/12/2016
 2016/418506	Notification Letter - 28	23/12/2016
 2017/010567	Development Engineering Referral Response	13/01/2017
 2017/038478	Landscape Referral Response	10/02/2017
 2017/042594	Working Plans	14/02/2017