

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

|                            |              |
|----------------------------|--------------|
| <b>Application Number:</b> | Mod2015/0065 |
|----------------------------|--------------|

|                                           |                                                                                                                                     |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| <b>Responsible Officer:</b>               | Daniel Milliken                                                                                                                     |
| <b>Land to be developed (Address):</b>    | Lot 10 DP 6260 , 20 Stewart Avenue CURL CURL NSW 2096                                                                               |
| <b>Proposed Development:</b>              | Modification of Development Consent DA2014/1100 granted for Demolition Works and Construction of a dwelling house and swimming pool |
| <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>                             | Helen Noreen Bruen                                                                                                                  |
| <b>Applicant:</b>                         | Helen Noreen Bruen<br>Stephen Bruen                                                                                                 |

|                                  |                                               |
|----------------------------------|-----------------------------------------------|
| <b>Application lodged:</b>       | 01/04/2015                                    |
| <b>Application Type:</b>         | Local                                         |
| <b>State Reporting Category:</b> | Residential - Alterations and additions       |
| <b>Notified:</b>                 | 21/04/2015 to 06/05/2015                      |
| <b>Advertised:</b>               | Not Advertised in accordance with A.7 of WDCP |
| <b>Submissions:</b>              | 0                                             |
| <b>Recommendation:</b>           | 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 Council / Government / Authority Officers on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

## SITE DESCRIPTION

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Property Description:</b>      | Lot 10 DP 6260 , 20 Stewart Avenue CURL CURL NSW 2096                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Detailed Site Description:</b> | The site is located on the northern side of Stewart Avenue, has an area of 602sqm and slopes down gently towards the north. Existing on the site is a single storey dwelling with a detached garage. The surrounding development consists of detached residential dwellings to the east, west and south and a public reserve (that adjoins Curl Curl Lagoon) to the north. The land is flood prone and requires the ground floor to be above the flood planning level. |

Map:



## SITE HISTORY

DA2014/1100 for Demolition Works and Construction of a dwelling house and swimming pool was approved on 11 December 2014.

## PROPOSED DEVELOPMENT IN DETAIL

The modifications include:

- A new BBQ on the eastern side of the rear deck.
- Minor changes to W13 and W14 located in the kitchen.
- Alterations to the kitchen layout.
- Remove W15.
- Remove W7 and replace with a gas fireplace.
- Amend W11 from a door to a window.
- Raise the pool and pool deck.

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:

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 DA2014/1100, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

| <b>Section 96(1A) - Other Modifications</b>                                                                                                                                                                                                                     | <b>Comments</b>                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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 proposed modification is of minimal environmental impact, and                                                                                                                                                                      | <b>Yes</b><br>The modification, as proposed in this application, is considered to be of minimal environmental impact.                                                             |
| (b) 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 DA2014/1100. |

| Section 96(1A) - Other Modifications                                                                                                                                                                                                                                                                                                                                              | Comments                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (c) it has notified the application in accordance with:<br><br>(i) the regulations, if the regulations so require,<br><br>or<br><br>(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 plan, as the case may be.                                                                                                                                                                                  | No submissions were received in relation to this application.                                                                                                                                                                                           |

## 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)(iia) – Provisions of any planning agreement                     | None applicable.                                                                                                                                                                                                   |
| Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment   | <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. |

| Section 79C 'Matters for Consideration'                                                                                                                                           | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulation 2000 (EP&A Regulation 2000)                                                                                                                                            | <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 in the original 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 matter has been addressed via a condition in the original consent.</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 in the original consent.</p> <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 in the original consent.</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 | (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**

| <b>Internal Referral Body</b> | <b>Comments</b>                                                                                                                                                                                         |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Development Engineers         | The proposed modifications do not impact upon the proposed method of drainage disposal or the driveway access.<br><br>No objection to approval and no additional or amended conditions are recommended. |
| Natural Environment (Flood)   | The proposed modification demonstrates that the development will still provide additional flood storage in comparison to the existing case. No flood related development controls applied.              |

| <b>External Referral Body</b> | <b>Comments</b>                                                                                                                                                                                      |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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 71 - Coastal Protection

| Matters for Consideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Is the development located in an area identified as being within:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |     |
| 100m of the coastline mean high water mark?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | No  |
| A Sensitive Coastal Location under SEPP 71?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Yes |
| A Zone of Wave Impact under WLEP 2000?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | No  |
| A Zone of Slope Adjustment under WLEP 2000?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | No  |
| A Reduced Foundation Capacity under WLEP 2000?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | No  |
| <p>Within an area identified under the report entitled Review of Coastline Hazard Lines for Collaroy-Narrabeen Beach and Fishermans Beach prepared by WorleyParsons Issue 8, July 2009 as being subject to coastal impact?</p> <p>Note: Prior to any consideration of the proposed development it should be noted that Coastal Processes are constantly changing. Statutory Planning processes however, cannot be varied at the same rate. Notwithstanding, Council has recently received a report entitled Review of Coastline Hazard Lines for Collaroy-Narrabeen Beach and Fishermans Beach prepared by WorleyParson Issue 8, July 2009 to review the Coastal Hazard Zones and potential impacts of coastal processes, such as erosion, rising sea levels and large storm events.</p> <p>Whilst Warringah Local Environment Plan 2011 stipulates legislative provisions for consideration, this report provides additional information which has been brought to Council's attention.</p> <p>Accordingly, pursuant to s79C (b), (c) &amp; (e) under the Environmental Planning Assessment Act 1979 consideration of this report will be given to aid in the interpretation of the current controls and any recommendations provided there after to help determine the likely impacts upon the natural and built environments, the suitability of the site for development and the public interest.</p> <p>(Note: the report will not be given determining weight as it is not legislated unlike the existing</p> | No  |

provisions under WLEP 2011.)

### Requirements under SEPP 71 – Coastal Protection

The proposal has been identified as being located within a Sensitive Coastal Location as identified on the Coastal Zone map gazetted on the 18 November 2005. Accordingly, pursuant to Section 79C (a)(i) of the Environmental Planning and Assessment Act 1979, the provisions of State Environmental Planning Policy No.71 – Coastal Protection are to be considered.

Only the relevant sections of State Environmental Planning Policy No.71 – Coastal Protection to be considered by the Natural Environment Unit are identified below. It must be noted that all other provisions may apply to the subject site and should be considered prior to the determination of the Development Application.

| Assessment Consideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Assessment Acceptability | Further Assessment Comment |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------|
| <p>Is the development acceptable with regard to the SEPP 71 Policy aims to be considered by Natural Environment Unit detailed as follows:</p> <p><i>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and...</i></p> <p><i>(f) to protect and preserve beach environments and beach amenity, and</i></p> <p><i>(g) to protect and preserve native coastal vegetation, and</i></p> <p><i>(h) to protect and preserve the marine environment of New South Wales, and</i></p> <p><i>(i) to protect and preserve rock platforms, and</i></p> <p><i>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and...</i></p> <p><i>(l) to encourage a strategic approach to coastal management.</i></p> | Yes                      | N/A                        |
| <p>Does the development implement measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Yes                      | N/A                        |

| Assessment Consideration                                                                                                                                                                                                            | Assessment Acceptability | Further Assessment Comment |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------|
| Act), and their habitats?                                                                                                                                                                                                           |                          |                            |
| Does the development implement measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i> ) and marine vegetation (within the meaning of that Part), and their habitats?                  | Yes                      | N/A                        |
| Does the development take into consideration existing wildlife corridors and the impact of development on these corridors?                                                                                                          | Yes                      | N/A                        |
| Are the likely impact of coastal processes and coastal hazards on the development and any likely impacts of the development on coastal processes and coastal hazards acceptable?                                                    | Yes                      | N/A                        |
| Are the likely impacts of development on the water quality of coastal waterbodies acceptable?                                                                                                                                       | Yes                      | N/A                        |
| Is the development acceptable with regard to:<br><br>(i) the cumulative impacts of the proposed development on the environment, and<br>(ii) measures to ensure that water and energy usage by the proposed development is efficient | Yes                      | N/A                        |
| Does the development, include a non-reticulated system?<br>No                                                                                                                                                                       | N/A                      | N/A                        |
| Does the development seek consent, or result in, untreated stormwater being discharged into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform?               | No                       | N/A                        |

| Assessment Consideration | Assessment Acceptability | Further Assessment Comment |
|--------------------------|--------------------------|----------------------------|
|                          |                          |                            |

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 572609S\_03 dated 30 March 2015).

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

| Commitment             | Required Target | Proposed |
|------------------------|-----------------|----------|
| <b>Water</b>           | 40              | 40       |
| <b>Thermal Comfort</b> | Pass            | Pass     |
| <b>Energy</b>          | 40              | 40       |

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:

- 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                         | Complies |
|----------------------|-------------|----------|----------------------------------|----------|
| Height of Buildings: | 8.5m        | 8.89m    | Modified works - Maximum of 4.4m | Yes      |

#### Compliance Assessment

| Clause                                  | Compliance with Requirements |
|-----------------------------------------|------------------------------|
| 4.3 Height of buildings                 | Yes                          |
| 5.5 Development within the coastal zone | Yes                          |
| 6.1 Acid sulfate soils                  | Yes                          |
| 6.2 Earthworks                          | Yes                          |
| 6.3 Flood planning                      | 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        | 6.8m                                                                                                                                           | Modified works - 4.4m                        | Yes          |
| B3 Side Boundary Envelope  | 5m          | East elevation:<br>Encroachment of<br>between nil and<br>300mm in height for a<br>length of 9.2m                                               | Modified works - No further<br>encroachments | No<br>change |
|                            | 5m          | West elevation:<br>Encroachments of<br>between 700mm -<br>1.0m and nil to 650mm in<br>height for<br>lengths of 12.2m and 7.6m<br>respectively. | Modified works - No further<br>encroachments | No change    |
| B5 Side Boundary Setbacks  | 0.9m        | East - 1.395m                                                                                                                                  | East - 1.395m                                | Yes          |
|                            | 0.9m        | West - 900mm                                                                                                                                   | West - 900mm                                 | Yes          |
| B7 Front Boundary Setbacks | 6.5m        | 6.5m                                                                                                                                           | 6.5m                                         | Yes          |
| B9 Rear Boundary Setbacks  | 6m          | Dwelling - 13.5m                                                                                                                               | Dwelling - 13.5m                             | Yes          |

|                                               |     |                |                |     |
|-----------------------------------------------|-----|----------------|----------------|-----|
|                                               |     | Pool - 2.74m   | Pool - 2.74m   |     |
| D1 Landscaped Open Space and Bushland Setting | 40% | 41.2% (248sqm) | 41.2% (248sqm) | Yes |

#### Compliance Assessment

| Clause                                             | Compliance with Requirements | Consistency Aims/Objectives |
|----------------------------------------------------|------------------------------|-----------------------------|
| A.5 Objectives                                     | Yes                          | Yes                         |
| B1 Wall Heights                                    | Yes                          | Yes                         |
| B3 Side Boundary Envelope                          | Yes                          | Yes                         |
| R2 Side Boundary Envelope Exceptions               | Yes                          | Yes                         |
| B5 Side Boundary Setbacks                          | Yes                          | Yes                         |
| Side Setbacks - R2                                 | Yes                          | Yes                         |
| Side Setback Exceptions - R2                       | Yes                          | Yes                         |
| B7 Front Boundary Setbacks                         | Yes                          | Yes                         |
| R2 - All other land in R2 Zone                     | Yes                          | Yes                         |
| B9 Rear Boundary Setbacks                          | Yes                          | Yes                         |
| All other land under R2                            | Yes                          | Yes                         |
| Rear Boundary Exceptions - R2                      | 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                         |
| D1 Landscaped Open Space and Bushland Setting      | Yes                          | Yes                         |
| D2 Private Open Space                              | Yes                          | Yes                         |
| D3 Noise                                           | 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                         |
| D12 Glare and Reflection                           | Yes                          | Yes                         |
| D16 Swimming Pools and Spa Pools                   | Yes                          | Yes                         |
| E7 Development on land adjoining public open space | Yes                          | Yes                         |
| E8 Waterways and Riparian Lands                    | Yes                          | Yes                         |
| E10 Landslip Risk                                  | Yes                          | Yes                         |
| E11 Flood Prone Land                               | Yes                          | Yes                         |

## **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**

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
- 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. Mod2015/0065 for Modification of Development Consent DA2014/1100 granted for Demolition Works and Construction of a dwelling house and swimming pool on land at Lot 10 DP 6260,20 Stewart Avenue, 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

| <b>Architectural Plans - Endorsed with Council's stamp</b> |              |                             |
|------------------------------------------------------------|--------------|-----------------------------|
| <b>Drawing No.</b>                                         | <b>Dated</b> | <b>Prepared By</b>          |
| CC01 Revision A                                            | 19.03.2015   | Hobbs Jamieson Architecture |
| CC02 Revision A                                            | 19.03.2015   | Hobbs Jamieson Architecture |
| CC03 Revision A                                            | 19.03.2015   | Hobbs Jamieson Architecture |
| CC04 Revision A                                            | 19.03.2015   | Hobbs Jamieson Architecture |

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

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

**B. Modify Condition 2 - Prescribed Conditions to read as follows:**

(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 (Certificate No. 572609S\_03 dated 30 March 2015) (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 v
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone nun
- (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 name of the owner-builder permit holder.

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
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried

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

Reason: Legislative Requirement (DACPLB09)

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, Planner**

The application is determined under the delegated authority of:

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**Steven Findlay, Development Assessment Manager**

## ATTACHMENT A

No notification plan recorded.

## ATTACHMENT B

| Notification Document                                                                         | Title            | Date       |
|-----------------------------------------------------------------------------------------------|------------------|------------|
|  2015/112041 | Notification map | 21/04/2015 |

## ATTACHMENT C

| Reference Number                                                                                | Document                                                                                                     | Date       |
|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|------------|
|  2015/094208   | Plan - Survey from CD                                                                                        | 04/02/2014 |
|  2015/094256   | Thermal Performance Specifications from CD                                                                   | 30/03/2015 |
|  2015/094278   | Plans - Master Set from CD                                                                                   | 31/03/2015 |
|  2015/094257   | Plans - Notification from CD                                                                                 | 31/03/2015 |
|  2015/094263   | E-mail - Flood Information from CD                                                                           | 31/03/2015 |
|  MOD2015/0065  | 20 Stewart Avenue CURL CURL NSW 2096 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact | 01/04/2015 |
|  2015/093130   | DA Acknowledgement Letter - Stephen Bruen - Helen Noreen Bruen                                               | 01/04/2015 |
|  2015/094249   | Thermal Comfort Assessment from CD                                                                           | 01/04/2015 |
|  2015/094246   | NatHERS Certificate and Building Elements Details from CD                                                    | 01/04/2015 |
|  2015/094219   | Plan - External - Energy Stamped from CD                                                                     | 01/04/2015 |
|  2015/094188 | Development Application Form                                                                                 | 01/04/2015 |
|  2015/094192 | Applicant Details                                                                                            | 01/04/2015 |
|  2015/094230 | Plans - Internal - Energy Stamped                                                                            | 01/04/2015 |
|  2015/094253 | Report BASIX Certificate                                                                                     | 01/04/2015 |
|  2015/104967 | File Cover                                                                                                   | 14/04/2015 |
|  2015/104987 | Referral to AUSGRID - SEPP - Infrastructure 2007                                                             | 14/04/2015 |
|  2015/112038 | Notification letter 26                                                                                       | 21/04/2015 |
|  2015/112041 | Notification map                                                                                             | 21/04/2015 |
|  2015/115640 | Development Engineering Referral Response                                                                    | 24/04/2015 |
|  2015/119071 | Natural Environment Referral Response - Flood                                                                | 28/04/2015 |
|  2015/131953 | Natural Environment Referral Response - Flood                                                                | 11/05/2015 |