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Urbis Pty Ltd  
ABN 50 105 256 228

7 July 2020

The General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655 Australia

Dear Sir/Madam,

## **SECTION 4.55 (1A) MODIFICATION TO DA2014/0875 - HARBORD DIGGERS CLUB**

### **1. INTRODUCTION**

This Section 4.55(1A) application has been prepared by Urbis Pty Ltd on behalf the applicant, Mt Pritchard and District Community Club Ltd (Mounties Group) as relevant to the Club at 88 Evans Street Freshwater ("Harbord Diggers Club"). The purpose is to amend Development Application (**DA**) DA2014/0875 to amend the use of some areas of the Club now that construction is nearing completion and the Club operations are more fully understood.

This application seeks to modify condition 1A of the Conditions of Consent of DA2014/0875 (the **Consent**) to amend the approved architectural plans to clarify the use of some areas of lower and upper ground of the Club building into multi purpose and Club member spaces. The proposed amendments to the approved architectural plans provide updated annotations. It is noted that the area of the amendments are already approved for associated Club use. No works are proposed under this modification.

In addition to this letter, the Section 4.55(1A) application comprises:

- Completed Development Application form and checklist, including owners' consent; and
- Amended Architectural Plans prepared by Architectus + Chrofi (**Appendix A**).

This Section 4.55(1A) includes a description of the site, a description of the approved development; details of the proposed modifications; consideration of the proposed modifications against Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**); and an assessment of the proposed modifications against Section 4.15 of the EP&A Act.

The proposal is the subject of a Section 4.55(1A) application, as the proposed amendments will result in substantially the same development approved under DA2014/0875, as amended. The modifications will not result in any alterations to the approved land-uses or building heights of the approved and already constructed development, and negligible environmental impacts will be generated by the proposal on the surrounding locality.

## 2. SITE AND SURROUNDS

### 2.1. THE SITE

The subject site is located at 88 Evans Street, Freshwater (also referred to 68-90 Evans Street Freshwater) and is legally described as Lot 20 DP1242304. The site is located in a prominent location on the coastal headland between Freshwater and Curl Curl Beaches. It is located amongst a mix of residential development of varying forms and density. It is bounded by Carrington Parade to the north, McKillop Park and an open car park (south), Lumsdaine Drive to the east and Evans Street to the west. The site is located in close proximity to local shopping facilities and services in Freshwater Village, which is centred on Lawrence Street and Moore Road, approximately 700m from the site.

The subject site is outlined in red in the aerial context image in **Figure 1** below.

Figure 1 - Aerial view of the site



Source: SIX Maps

## 2.2. SURROUNDING CONTEXT

- **North:** Directly adjacent to the north of the site is residential development fronting Carrington Parade.
- **East:** Directly adjacent to the east of the site is Lumsdaine Drive, the Curl Curl Boardwalk and the ocean.
- **South:** Directly adjacent to the south of the site is a leased car and crown land open space including the Duke Kahanamoku Memorial statue as well as car parking and Freshwater Lookout further to the south.
- **West:** West of the site is residential flat buildings fronting Evans Street/Lumsdaine Drive and then further to the west is Freshwater Beach.

## 3. DEVELOPMENT CONSENT HISTORY

The Harbord Diggers Club has been subject to multiple Development Applications over many years to facilitate the long term redevelopment as an intergenerational club facility. A summary of the key applications approved for the site are provided below.

### DA2013/0412 - Stage 1 Development Approval

Approval was granted by the Sydney East Joint Regional Planning Panel (JRPP) on 16th September 2013 for the building envelopes of the redevelopment of the site for the purpose of an intergenerational club comprising seniors housing, new club facility, child care, gymnasium, community centre and respite care. The consent approved building envelopes for four (4) new buildings and the adaptive re-use of the existing Club building. No approval was given for physical works to commence on the site under DA2013/0412.

### DA2014/0875 - Stage 2 Development Approval

Approval was granted for physical works on the site generally in accordance with the Stage 1 building envelopes by the JRPP on 1 December 2014. The proposed works included four (4) three storey buildings (known as Buildings A, B, C and D), the adaptive re-use of the existing Club building (known as Buildings E and F), new club facilities, 97 independent seniors living units across the six buildings and Car parking within common basement levels. The consent was stated as:

*Demolition and Excavation works and Construction of Seniors Housing, Registered Club, Childcare Centre and associated carparking and landscaping (Harbord Diggers Club site)*

### DA2020/0101 - Stratum subdivision

Approval was granted for the stratum subdivision of the site (68-90 Evans Street, Freshwater) by Northern Beaches Council on 20 March 2020. The consent is stated as:

*Stratum subdivision of the Harbord Diggers Development Site*

### Modifications to DA2014/0875

This application was subsequently modified under Section 4.55 (formerly S.96) by:

- Mod2015/0152 (23 November 2015):

*Modification of Development Consent DA2014/0875 granted for Demolition and Excavation works and Construction of Seniors Housing, Registered Club, Childcare Centre and associated carparking and landscaping (Harbord Diggers Club)*

- Mod2016/0298 (5 January 2017):

*Modification of Development Consent DA2014/0875 granted for Demolition and Excavations works and Construction of Seniors Housing, Registered Club, Childcare Centre and associated carparking and landscaping (Harbord Diggers Club site)*

- Mod2017/0063 (1 June 2017):

*Modification of Development Consent DA2014/0875 granted for Demolition and Excavations works and Construction of Seniors Housing Registered Club Childcare Centre and associated carparking and landscaping Harbord Diggers Club site*

An amendment to DA2014/0875, as modified, is sought as part of this application. The previous amendment to the approved plans in Condition 1A was undertaken as part of Mod 2015/0152 and represents the latest revisions of the floor plans.

## **Construction works**

The construction works in accordance with the approvals are generally completed across the site and Interim Occupation Certificates issued. CDCs have also been issued for other works.

## **4. PROJECT BACKGROUND**

### **4.1. ORIGINAL DEVELOPMENT APPLICATION (DA2014/0875)**

The site is zoned R2 Low Density Residential however is subject to Schedule 1- Additional Permitted Uses, subclause 13 which is extracted verbatim below:

#### **13 Use of certain land at Lumsdaine Drive, Freshwater**

- (1) *This clause applies to land at Lumsdaine Drive, Freshwater, being Lot 100, DP 1136132 and Lot 2, DP 579837, shown as "Area 13" on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of recreation facilities (indoor), recreation facilities (outdoor) (but only if the facility, whether indoor or outdoor, operates in conjunction with a registered club) and registered clubs is permitted with consent.*

Development Consent DA2014/0875 was granted for:

*"Demolition and Excavation works and Construction of Seniors Housing, Registered Club, Childcare Centre and associated carparking and landscaping (Harbord Diggers Club)".*

Condition 4 of the existing development consent, as modified, in place for the Harbord Diggers Club (MOD2015/0152) dictates the ancillary permitted land uses on the site. Condition 4 is produced verbatim below.

#### **4. Facilities Associated with Harbord Diggers Club**

*The Café, Aquatic Centre, Gymnasium, Hairdresser and Day Spa, and other ancillary member services activities including but not limited to temporary uses are to be used only in conjunction with the operations of the Harbord Diggers Club.*

*Reason: To ensure compliance with the permissibility of the development under the Warringah Local Environmental Plan 2011."*

The intent of Condition 4 is to ensure that the ancillary uses are tied to the operation of the Club and this remains satisfied with this application.

## **4.2. ANCILLARY DEVELOPMENT**

There is established "test" for an ancillary use. When considering the approved land uses on site, ancillary activities could be associated with a registered club, seniors housing, child care and recreational facilities (indoor and outdoor). For example a registered Club is made up of food and beverage, gaming, community and function spaces and has a membership base and traditionally services the local community. Therefore to be considered ancillary, the activity is to be subservient to the main Club use. The question is framed around "could this use operate in its own right?". A number of factors feed into this assessment being the consideration of the scale, patronage, the impact (e.g. parking, traffic, noise etc) and can it be considered an "associated use". The ancillary question is relevant when considering the proposed modification.

The proposed areas of the Club at Lower Ground and Upper Ground are intended to be multipurpose, flexible, overflow spaces that will be utilised for activities and services associated with the established registered Club use.

## **4.3. PRE-LODGE MENT DISCUSSIONS**

A formal pre-lodgement meeting was not undertaken, however a telephone discussion with Council's planner was made to generally discuss the application.

## **5. PROPOSED MODIFICATIONS**

This Section 4.55(1A) application seeks to modify Condition 1 of DA2014/0875 to amend the approved architectural plans. The modified architectural plans have been prepared by Architectus + Chrofi (**Appendix A**) and comprise a change to the annotation of a small area of the lower ground and upper ground level of the Club to enable multipurpose Club and member services areas depending on the demand or interest.

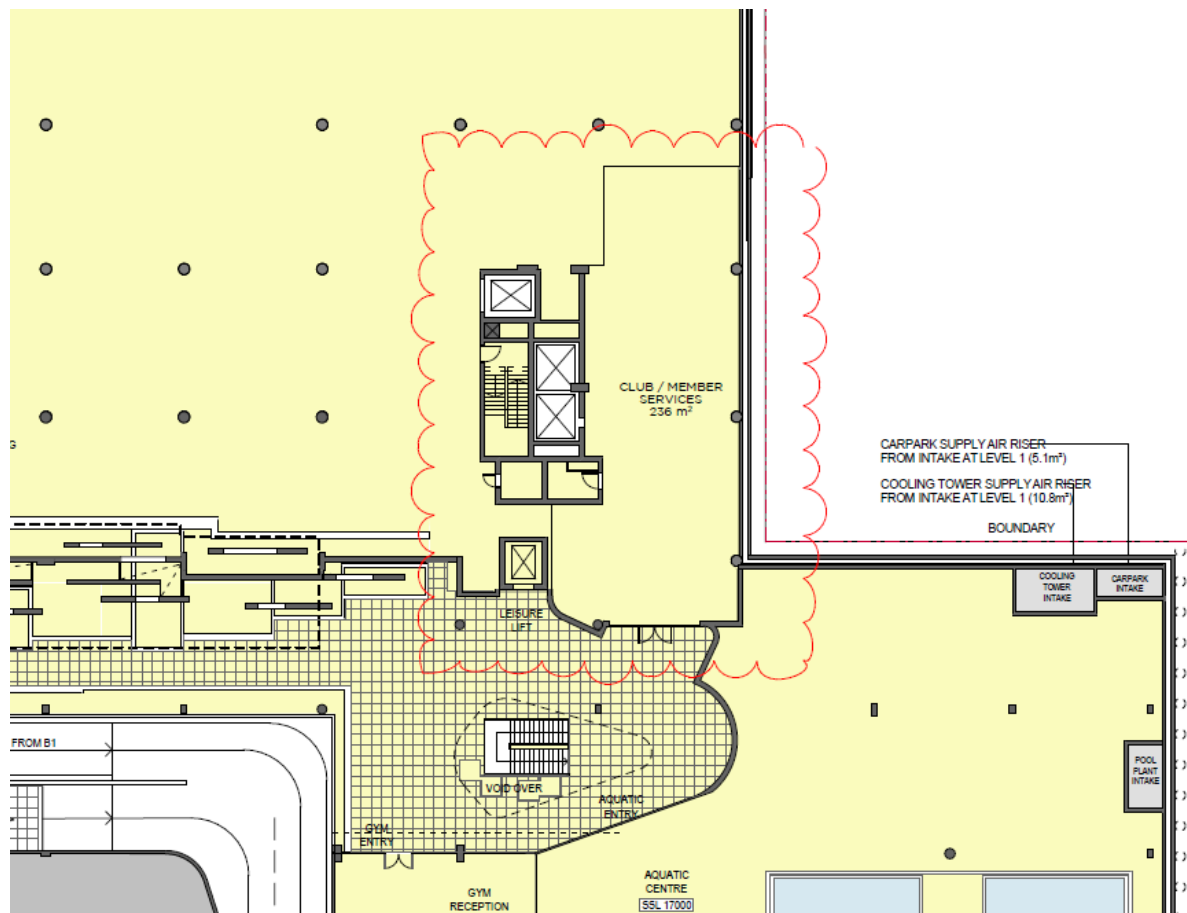
### **5.1. PROPOSED DESIGN CHANGES**

There are no proposed works or design changes to the approved drawings however an amendment to the approved drawings, by nominating use, is sought. Attached are the amended Architectural Plans located at **Appendix A**.

#### **5.1.1. Lower Ground Floor**

- Change in the use of the eastern portion of the lower ground floor currently labelled as 'hair dresser' and 'day spa' of approximately 236sqm in size.
- Add annotation of "club or member services" associated with the Club.

Figure 2 - Proposed modification to Lower Ground Floor

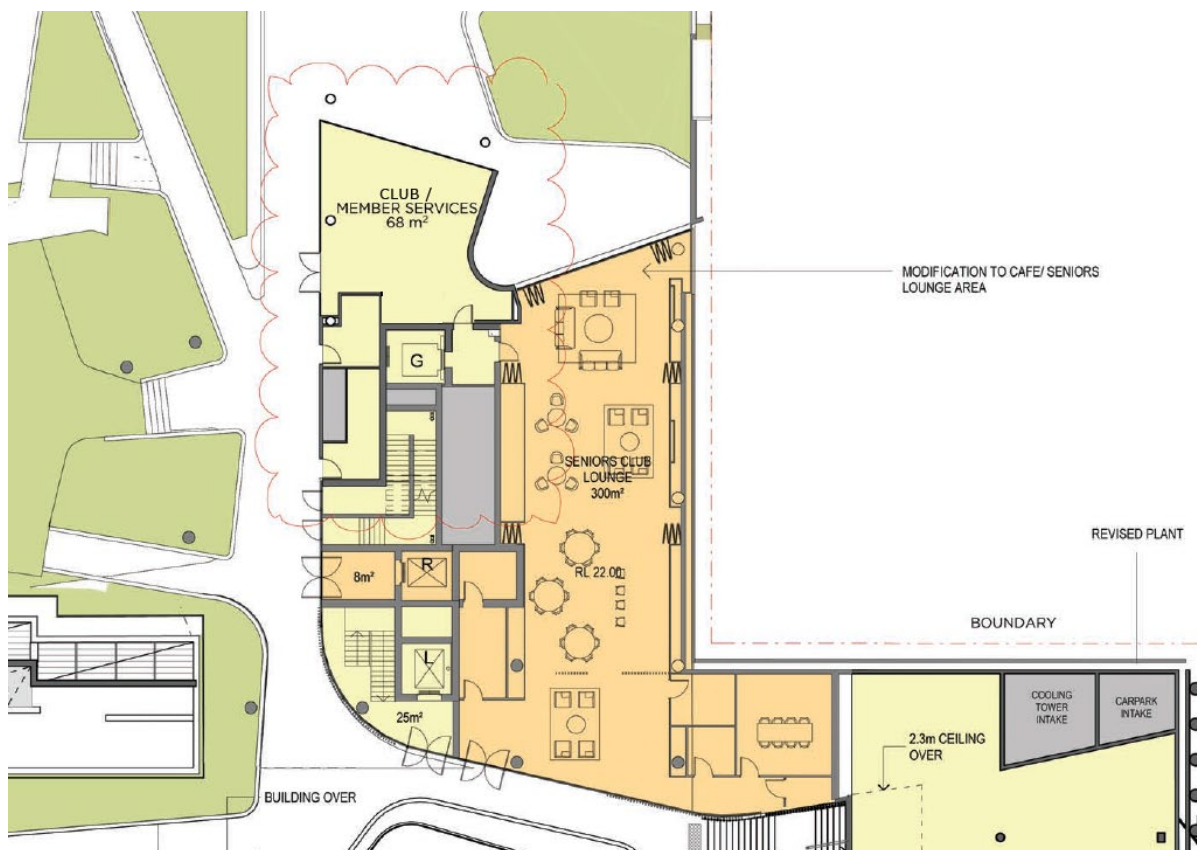


Source: Architectus + Chrofi

### 5.1.2. Upper Ground Floor

- Change in the use of the eastern portion of the lower ground floor currently labelled as 'café' in approximately in 68sqm in size.
- Add annotation of "Club/Member Services" associated with the Club.

Figure 3 - Proposed modification to Upper Ground Floor



Source: Architectus + Chrofi

## 5.2. PROPOSED AMENDMENTS TO CONDITIONS OF THE CONSENT

The proposed modifications to Condition 1 and 32 of the consent for DA2014/0875 to modify the approved architectural plans are shown ~~struck out~~ and amendments are shown in **bold red**. The only modifications proposed are applicable to the approved Architectural Plans as indicated below.

### 1. Approved Plans and Supporting Documentation

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

#### (a) Approved Plans

#### Architectural Plans – Endorsed with Council's Stamp

Drawing No.	Dated	Prepared By
DA002 – A	01/08/2014	Architectus + Chrofi
DA100 – A	01/08/2014	Architectus + Chrofi

Architectural Plans – Endorsed with Council’s Stamp		
DA101 – A	01/08/2014	Architectus + Chrofi
DA102 – A	01/08/2014	Architectus + Chrofi
<del>DA103 – A</del>	<del>01/08/2014</del>	Architectus + Chrofi
<b>DA103 - E</b>	<b>06.2020</b>	
<del>DA104 – A</del>	<del>01/08/2014</del>	Architectus + Chrofi
<b>DA104 - F</b>	<b>06.2020</b>	
DA105 – A	01/08/2014	Architectus + Chrofi
DA106 – A	01/08/2014	Architectus + Chrofi
DA107 – A	01/08/2014	Architectus + Chrofi
DA108 - A	01/08/2014	Architectus + Chrofi
DA109 – A	01/08/2014	Architectus + Chrofi
DA111 – A	01/08/2014	Architectus + Chrofi
DA112 – A	01/08/2014	Architectus + Chrofi
DA 113 – A	01/08/2014	Architectus + Chrofi
DA114 - A	01/08/2014	Architectus + Chrofi
DA115 – A	01/08/2014	Architectus + Chrofi
DA116 – A	01/08/2014	Architectus + Chrofi
DA117 - A	01/08/2014	Architectus + Chrofi
DA120 – A	01/08/2014	Architectus + Chrofi
DA121 – A	01/08/2014	Architectus + Chrofi
DA122 – A	01/08/2014	Architectus + Chrofi
DA123 – A	01/08/2014	Architectus + Chrofi
DA124 – A	01/08/2014	Architectus + Chrofi

<b>Architectural Plans – Endorsed with Council’s Stamp</b>		
DA125 - A	01/08/2014	Architectus + Chrofi
DA126 – A	01/08/2014	Architectus + Chrofi
DA130 - A	01/08/2014	Architectus + Chrofi
DA131 - A	01/08/2014	Architectus + Chrofi
DA132 – A	01/08/2014	Architectus + Chrofi
DA138 – A	01/08/2014	Architectus + Chrofi
DA139 - A	01/08/2014	Architectus + Chrofi
DA150 - A	01/08/2014	Architectus + Chrofi

## 6. SECTION 4.55(1A) ASSESSMENT

The matters referred to in Section 4.55(1A) of the EP&A Act need to be considered in the assessment of the proposed modifications. Each of the matters relevant to the proposal are assessed below.

### 6.1. MINIMAL ENVIRONMENTAL IMPACT

The proposed modifications to the consent are minor, limited in scale and do not affect the building height or primary land use approved under DA2014/0875. The modifications simply seeks to amend the approved drawings, by nominating use, is sought to clarify the use of some areas of lower and upper ground of the Club building into multi purpose and Club member spaces. The proposed amendments to the approved architectural plans provide updated annotations. It is noted that the areas of the amendments are already approved for associated Club use. As a result, it is therefore considered that the proposal will have a negligible impact upon the surrounding environment.

### 6.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The proposed modifications will result in substantially the same development approved under DA2014/0875. This is because the proposed modifications:

- Do not represent a significant departure from the approved architectural plans or constructed development of the site;
- Do not impact the existing maximum building height of the site;
- The proposed amendments to the land use are already approved for associated Club use; and
- Do not result in any changes to the external façade of the development.

Considering the above, it is our opinion that the proposed modifications are minimal and will result in substantially the same development for which consent has already been granted.

## 6.3. PUBLIC NOTIFICATIONS AND SUBMISSIONS

It is acknowledged that any submissions arising from the public notification of this application will need to be assessed by Council.

## 7. SECTION 4.15 ASSESSMENT

The matters referred to in Section 4.15 of the EP&A Act also need to be considered in the assessment of the proposed modifications. Each of the matters relevant to the proposal are assessed below.

### 7.1. ENVIRONMENTAL PLANNING INSTRUMENTS

The *Warringah Local Environmental Plan 2011 (WLEP)* is the principal environmental planning instrument governing development at the site. An assessment of the proposed modification against the key controls of the WLEP has been outlined in **Table 1**.

#### Zoning and Permissibility

Under the Warringah Local Environmental Plan 2011 (WLEP), the site is zoned R2 Low Density Residential.

Table 1 – WLEP Compliance Table

Clause	Control	Comment	Compliance
Clause 2.5 – Additional Permitted Uses	<p>1) <i>Development on particular land that is described or referred to in Schedule 1 may be carried out—</i></p> <p>(a) <i>with development consent, or</i></p> <p>(b) <i>if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.</i></p>	See <b>Schedule 1- Additional Permitted Uses</b> below.	YES
Clause 4.3 - Height of Building	8.5m	The proposal does not impact the building height approved under DA2014/0875. The maximum height approved under DA2014/0875 was 39.65RL which was achieved via SEPP 1	YES

Clause	Control	Comment	Compliance
		Objection – SEPP Seniors, Clause 40(4).	
Clause 4.4 - Floor Space Ratio	<p><i>(1) The objectives of this clause are as follows—</i></p> <p><i>(a) to limit the intensity of development and associated traffic generation so that they are commensurate with the capacity of existing and planned infrastructure, including transport infrastructure,</i></p>	There is no proposed change to the FSR approved under DA2014/0875.	YES
Clause 5.10 - Heritage Conservation	Conserve the heritage significance of heritage items and heritage conservation areas.	The site is not identified as a heritage item or identified as being located in a heritage conservation area. The site is located near a Conservation Area – Landscape (C14) and a local listed heritage item I65. None of the proposed modifications will impact this item or area as they do not greatly differ to the originally approved and assed under DA2014/0875.	YES

#### Schedule 1- Additional Permitted Uses

Under Clause 2.5 of the WLEP, the site (known as Area 13) is also subject to *Schedule 1- Additional Permitted Uses* which specifically permits the following:

*Development for the purposes of recreation facilities (indoor), recreation facilities (outdoor) (but only if the facility, whether indoor or outdoor, operates in conjunction with a registered club) and registered clubs is permitted with consent.*

See **Figure 4** below.

Figure 4 - Additional Permitted Uses Map



Source: WLEP

As such, the proposed modifications are permitted with consent. Further, as per **Table 1**, the proposal complies with each of the relevant provisions of the WLEP.

## 7.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

No draft environmental planning instruments are relevant to this proposal.

## 7.3. DEVELOPMENT CONTROL PLAN

The Warringah Development Control Plan 2011 (**WDCP**) provides detailed controls for specific development types and locations. Most controls relate to character, streetscape and public domain works. The proposed works are internally located and therefore comply with the relevant wall height, setback, open space and built form controls.

WDCP was comprehensively considered as part of DA2014/0875 and accordingly the proposed change in the activity of the two spaces (refer to **Section 3**) remains consistent with the built form controls of the DCP as relevant to a Club.

In addition, the proposal satisfies each of the objectives outlined within 'Part A.5 Objectives' of the WDCP. Accordingly, the proposal complies with each of the relevant provisions of the WDCP.

## **7.4. PLANNING AGREEMENT**

There are no applicable planning agreements or regulations of note relevant to the subject proposal.

## **7.5. REGULATIONS**

The application has been prepared in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulations 2000*.

## **7.6. LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT**

### **7.6.1. Built Form**

The proposed modifications will not generally impact the external built form of the development already approved and constructed under DA2014/0875. Accordingly, the proposed modifications will:

- Not increase the approved and constructed maximum building height, bulk or scale;
- Not result in additional overshadowing on adjoining roads, properties or public open spaces;
- Not result in additional loss of views from surrounding properties;
- Not result in a negative outlook when viewing the site from the street; and
- Not generate additional wind impacts on the surrounding locality.

Considering the above, the proposal is deemed to be unobtrusive and will not result in the creation of any adverse built form impacts upon the surrounding locality.

### **7.6.2. Natural Environment**

The proposed modifications are located within the approved building envelope. Accordingly, the proposal will have no impact on the surrounding natural environment.

### **7.6.3. Social and Economic Impacts**

The proposal will provide a range of positive social and economic impacts. These comprise the generation of a range of local job opportunities, including temporary construction jobs that have been generated through the ongoing construction phase and on-going jobs associated with the operation of the Harbord Diggers Club upon completed. The modifications will allow for multi purpose and Club member spaces within the Club, noting that the areas of the amendments are already approved for associated Club use. This will ensure more flexibility in the ongoing use of the Club to continually provide for the ongoing functionality of the Club through adaptable space.

In addition to this, providing multipurpose space enables the club to expand its services that meet the ever changing needs of the member community. The provision of physical and social environments have an important influence on the health and wellbeing of its members; aiding in the responsibility the Club feels it has to the community. As a result, an increased sense of safety, access to affordable goods and services, increased places to meet and socialise, access to support networks, the creation of a sense of belonging all result from this, subsequently decreasing loneliness and a sense of purpose and independent for members depending on the services provided by the club as a result of the proposed.

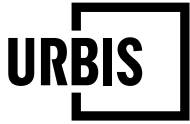
## **7.7. SUITABILITY OF THE SITE**

The proposed modifications will not result in any changes that would affect the suitability of the site to accommodate the development already approved and constructed under DA2014/0875. In addition, the proposed modifications are permissible with consent and simply seek to amend the annotation on the approved Architectural plans on Lower Ground and Upper Ground Level to allow or a small portion of the site to be adaptable in the future uses, noting that these uses have already been approved as associated club uses. Accordingly, the proposed modifications do not create an undesirable precedent and are considered suitable for the site.

## **7.8. THE PUBLIC INTEREST**

It is considered that the proposed modifications to the consent do not contravene the public interest of the development already approved and constructed under DA2008/0015. Further, the proposed modifications are considered in the public interest for the following reasons:

- The proposal complies with the principles and objectives of the relevant planning controls and it has been shown to produce negligible impacts upon the amenity of the surrounding area;
- The proposal will provide temporary construction jobs during the construction phase of works and continue to support on-going jobs;
- The proposal will not create any adverse built form impacts;
- The proposal will ensure greater internal circulation and an enhanced internal layout for current and future tenants, employees and visitors of the existing central building at the site is provided into the future and continue fire upgrade works; and
- The proposal increase the opportunity for the club to have a positive social impact on people living on the northern beaches and beyond.



## **8. CONCLUSION**

This Section 4.55(1A) application has been prepared by Urbis Pty Ltd on behalf of Mt Pritchard and District Community Club Ltd to support amendments to the consent for DA2014/0875 to amend the use of some areas of the Club now that construction is nearing completion and the Club operations are more fully understood.

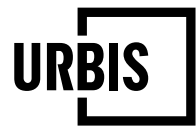
Based on the content contained throughout this letter and accompanying documentation, it is considered that the proposed modifications should be approved, subject to appropriate conditions.

Should you wish to discuss any aspect of the application, please do not hesitate to Grace Butcher on (02) 8233 7650 or [gbutcher@urbis.com.au](mailto:gbutcher@urbis.com.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Grace", followed by a long horizontal line extending to the right.

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## **APPENDIX A**

## **ARCHITECTURAL PLANS**