

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2019/0133
Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 1 DP 774980, 1 / 0 Veterans Parade NARRABEEN NSW 2101
Proposed Development:	Modification of Development Consent DA2009/1693 granted for Demolition of existing buildings and associated structures and construction of self contained dwellings for older people and people with a disability (Old Darby & Joan Precinct)
Zoning:	Warringah LEP2011 - Land zoned SP1 Special Activities Warringah LEP2011 - Land zoned E2 Environmental Conservation
Development Permissible:	Yes - Zone SP1 Special Activities Yes - Zone E2 Environmental Conservation
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	RSL LifeCare Limited
Applicant:	Tsa Management Pty Ltd

Application lodged:	29/03/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	18/04/2019 to 02/05/2019
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral

to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 774980 , 1 / 0 Veterans Parade NARRABEEN NSW 2101
Detailed Site Description:	<p>The 'subject site' is commonly known as the 'RSL War Veterans Retirement Village' located on Veterans Parade, Wheeler Heights.</p> <p>The site is approximately 44 hectares in area and occupies land (comprising 6 Lot titles) between Veterans Parade, Lantana Avenue and an unmade portion of South Creek Road.</p> <p>The form of accommodation within the village varies from one and two storey detached bungalows to a large nursing home and hostel buildings of up to five storeys in height. The buildings are dispersed amongst landscaped areas, bushland and internal roads.</p> <p>The RSL Village consists of a number of 'precincts'. This application relates to the old Darby and Joan precinct, which is located in the south/east part of the village and fronts Lantana Ave. Vehicle access to the old Darby and Joan precinct is via the internal village road (being First Avenue and Second Avenue) which intersects with Edmondson Drive. Edmondson Drive is one of the main internal roads in the village and intersects with Veterans Parade, which provides the main vehicular access to the village.</p> <p>Pedestrian access to Lantana Avenue by residents of Old Darby and Joan is available via a number of ramps and</p>

stairs.

Surrounding development outside the Village is characterised by residential dwellings to the east (Veterans Parade) and south (Lantana Ave), bushland within Jamieson Park to the north and north-west and Narrabeen Lake to the north and west.

Map:



SITE HISTORY

Original Development Consent

On 18 May 2010, development consent was granted to DA 2009/1693 by the Sydney East Joint Regional Planning Panel (JRPP) for the “demolition of existing buildings and associated structures and construction of 67 self-contained dwellings for older people and people with a disability (Old Darby and Joan precinct of the RSL War Veterans Retirement Village)”.

Development Application DA 2014/0714

On 8 September 2014, a separate DA (DA 2014/0714) was approved by Council over part of the site of DA 2009/1693. This application resulted in the reconfiguration of 20 of the self-contained dwellings approved in DA 2009/1693. To achieve consistency, the conditions of consent for DA 2014/0714 included the requirement (Condition No. 27) that DA 2009/1693 be modified to reflect the changes resulting from the approval of DA 2014/0714.

Modification No. 1 (Council Reference: Mod 2015/0056)

This modification was made in response to the requirements of Condition No. 27 of DA 2014/0714. It amended the description of the development and added an additional plan to clarify the effects on DA 2009/1693 by the approval of DA 2014/0714. Mod 2015/0056 was determined by Council on 1 July 2015.

Modification No.2 (Council's Reference: Mod2017/0304)

This modification was approved on 21 March 2019, which related to minor reconfiguration of the site layout, changes to the internal floor plans, additional ancillary internal road and access improvements, minor reconfiguration of the proposed garages and car parking and the removal of additional trees.

PROPOSED DEVELOPMENT IN DETAIL

The Applicant seeks to modify the original Development consent by removing three additional trees located in the northern part of the development site being noted as Tree 153, 107, and 143.

The removal of the additional trees from the site has been assessed by Council's Landscape officer, whom has raised no objection to the removal of these trees.

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 DA2009/1693, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental

Section 4.55(1A) - Other Modifications	Comments
	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 DA2009/1693.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See the discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining a modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See the discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.

Section 4.15 'Matters for Consideration'	Comments
	<p>Clauses 54 and 109 of the EP&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>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See the discussion on “Notification & Submissions Received” in this report.
Section 4.15 (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.

BUSHFIRE PRONE LAND

The modification of the application relates to the removal of three additional trees and therefore will not alter the General Terms of Approval as issued by NSW RFS as part of the original consent.

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 the relevant Development Control Plan.

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

MEDIATION

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The plans and Arborist's Report submitted with the application indicate removal of 3 additional trees not included in previous approvals for the site.</p> <p>Based on the approved works and tree locations, the trees are not able to be retained. Consequently, no objections to removal are raised in this instance.</p>
NECC (Bushland and Biodiversity)	<p>The additional tree removals are acceptable from a bushland and biodiversity perspective. The trees do not form part of an endangered ecological community, and they are not threatened species. A significant impact to the environment is considered to be unlikely.</p> <p>Tree replacements should be conditioned, and the Landscape Plan should be amended to include replacement trees.</p> <p>The consent 2009/1693 including Condition 22. Fauna and Tree Hollow re-location, and this must be adhered to as part of the proposed changes. The condition as written states that "Tree hollows are to be salvaged from trees within the development area and strategically placed within the APZ. This is to be done by a suitably qualified arborist, under the direction of a Project Ecologist. Other micro-habitat features such as logs and sandstone outcrops must be retained within the APZ.</p> <p>A detail prepared by the Project Ecologist in writing demonstrating compliance is to be submitted to the Principal Certifying Authority.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been

External Referral Body	Comments
	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)

Nil

Warringah Local Environmental 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

Compliance Assessment

Clause	Compliance with Requirements
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
F3 SP1 Special Activities	Yes	Yes
War Veterans Village, Narrabeen	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

Northern Beaches Council Contributions Plan 2018

Section 7.12 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 to Modification Application No. Mod2019/0133 for Modification of Development Consent DA2009/1693 granted for Demolition of existing buildings and associated structures and construction of self contained dwellings for older people and people with a disability (Old Darby & Joan Precinct) on land at Lot 1 DP 774980,1 / 0 Veterans Parade, NARRABEEN, 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, relating to the removal of trees

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A005 (Revision 2)	18 May	Humel Architect
Arborist Report	21/02/2019	Advanced Treescape Consulting

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

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

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

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Lashta Haidari, Principal Planner

The application is determined on //, under the delegated authority of:



Steven Findlay, Manager Development Assessments