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SYDNEY NSW 2000**

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12 December 2019

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

Dear Sir/Madam,

SECTION 4.55(1A) AMENDMENT TO DA2008/0015

DEE WHY GARDENS RETIREMENT VILLAGE AT 155-171 FISHER ROAD NORTH, CROMER

This Section 4.55(1A) application has been prepared by Urbis Pty Ltd on behalf of Lend Lease Retirement Living to amend Development Application (**DA**) DA2008/0015 for alterations and additions to the existing central community building of the Dee Why Gardens Retirement Village at 155-171 Fisher Road North, Cromer.

This application seeks to modify conditions 1 and 32 of the conditions of consent, DA2008/0015 (the **Consent**) to amend the approved architectural plans and as relevant to fire safety matters. The proposed amendments to the approved architectural plans seek to reconfigure the internal layout of various building elements on the lower ground and ground floor of the existing central building at the site. These amendments will provide greater internal circulation and amenity for current and future tenants, employees and visitors of the development. This application seeks to amend DA2008/015 to modify the layout of the internal refurbishment works, delete front entry external works and continue with the fire upgrade works.

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

- Completed Development Application form and checklist, including owners consent;
- Amended Architectural Plans prepared by Mostaghim & Associates; and
- Fire Safety Strategy prepared by City Plan Services.

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 DA2008/0015. The modifications will not result in any alterations to the 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.

1. THE SITE AND SURROUNDING CONTEXT

1.1. THE SITE

The site is located at 155-171 Fisher Road North, Cromer and is legally described as Lot 61 in DP 869675. This site is irregular in shape, has a total site area of approximately 3.14ha and contains a street frontage onto Fisher Road North to the west. An aerial image of the site is provided in **Figure 1**.

The site is currently occupied by the Dee Why Gardens Retirement Village development, which comprises a range of seniors housing units (comprising both independent living units and serviced apartments) and associated facilities and services.

Figure 1 - The Site



Source: Nearmap

At the site, the proposed modifications only affect parts of the lower ground and ground floor of the existing central building, located at the area of the site marked blue in **Figure 1**.

Internal photos of parts of the internal lower ground and ground floor areas affected by the proposed modifications within the central building are provided in **Figure 2 (Picture 1 and Picture 2)**.

Figure 2 – Parts Of Affected Site Area



Picture 1 – View 1

Source: Lend Lease Retirement Living



Picture 2 – View 2

Source: Lend Lease Retirement Living

1.2. SURROUNDING CONTEXT

- **North:** Directly adjacent to the north of the site is public open space and Cromer Park. Further north is Cromer Campus (Northern Beaches Secondary College).
- **East:** Directly adjacent to the east of the site are a range of detached low-density residential dwellings. Further east is public open space.
- **South:** Directly adjacent to the south of the site are a range of detached low-density residential dwellings and a residential flat building. Further south is the 'Ekidna – Dee Why School of Early Learning' and additional detached low-density residential dwellings.
- **West:** Directly adjacent to the west of the site is Fisher Road North. Further west is the Cromer Community Centre and James Morgan Reserve.

2. PROJECT BACKGROUND

2.1. ORIGINAL DEVELOPMENT APPLICATION (DA2008/0015)

On 1 September 2008, development consent was granted for DA2008/0015, which approved the following:

“Alterations and additions to the central building of an existing retirement village”

The consent generally approved the following works of refurbishment of the internal area, minor front entry external works and fire upgrade works.

Substantial commencement of the DA has been achieved as a Construction Certificate and Interim Occupation Certificate (IOC) was issued by Fitzgerald Building Certifiers for kitchen refurbishment and handrail replacement works. The IOC was issued on 14 January 2009.

Since the approval and subsequent construction of the development approved under DA2008/0015, it is proposed by Lend Lease Retirement Living to undertake a series of design changes to the lower ground and ground floor of the central building. These design changes will provide greater internal circulation and an enhanced internal layout beyond what currently exists for current and future tenants, employees and visitors.

This application seeks to amend DA2008/015 to modify the layout of the internal refurbishment works, delete front entry external works and continue with the fire upgrade works.

2.2. PRE-LODGE MEETING

On 26 September 2019, a pre-lodgement meeting was held at Northern Beaches Council to discuss the subject modification.

This application has appropriately responded to each of the comments raised by Council within the pre-lodgement meeting and subsequent pre-lodgement meeting minutes. A response to each of the comments raised by Council from the pre-lodgement meeting is provided within **Table 1**.

Table 1 – Pre-Lodgement Meeting Comments

No.	Council Comment	Response	Satisfied
1	The proposal is acceptable and is supported subject to addressing the matter raised within these notes, namely an updated 'Building Code of Australia Assessment Report' / 'Fire Audit Report and addressing the referral matters raised by Council's Environmental Health Officer.	A Fire Safety Strategy has been prepared by City Plan Services and is attached to this application. The report contains a Building Code of Australia and fire audit assessment of the proposed modifications. This has been addressed in further detail within Section 3.1.3 .	YES
2	A Section 4.55(1A) would be considered the appropriate application and should have a list of the proposed changes within the Statement of Environmental Effects (SEE).	A Section 4.55(1A) has been prepared and lodged to Council (subject application). Section 3 of this letter outlines each of the proposed design changes and requested modifications to the Consent.	YES
3	The site is situated within a R2 Low Density Residential zone and therefore relies on "Existing Use Rights". This will need to be demonstrated and addressed within the SEE.	Table 2 within Section 5.1 addresses the permissibility of the development.	YES

3. PROPOSED MODIFICATIONS

This Section 4.55(1A) application seeks to modify conditions 1 and 32 of DA2008/0015 to amend the approved architectural plans and reference a current fire safety/BCA statement. The modified architectural plans have been prepared by Mostaghim & Associates (accompanying the application) and comprise a series of design changes to the lower ground and ground floor areas of the central building at Dee Why Garden Retirement Village (site area marked blue in **Figure 2**). These proposed works will provide greater internal circulation and an enhanced internal layout for current and future tenants, employees and visitors of the development.

3.1. PROPOSED DESIGN CHANGES

An overview of each of the proposed works and design changes to the amended, attached Architectural Plans, are provided below.

3.1.1. Lower Ground Floor Changes:

- Demolition of existing structures, comprising:
 - Joinery cupboards and sink in multifunction room;
 - Select walls and doors in multifunction room;
 - Glazing to swimming pool area;
 - Wall to equipment 2 room; and
 - Select glazing, bulkhead and joinery in billiards room.
- Conversion of existing billiards room to a cinema and hair dresser. This comprises the construction of a dividing wall, walls, doors and associated infrastructure;
- Construction of new kitchenette in multifunction room;
- Conversion of existing equipment 2 room to consultant room. This comprises the construction of a new door and associated infrastructure;
- Construction of new glazing to swimming pool area; and
- Existing internal face brick walls on lower ground floor to be rendered.

3.1.2. Ground Floor Changes:

- Demolition of existing structures, comprising identified:
 - Walls and door to hair salon;
 - Walls and door to sale manager room;
 - Sanitary fixtures, floor tiles and skirting in toilets;
 - Wall and door in entry room;
 - Bulkhead, doors and walls in reception and associated admin room;
 - Walls and doors in kiosk room;

- Walls and doors in resident dining room;
- All walls and door in café space;
- Timber balustrade top and handrails on stairs; and
- Concrete balustrade to void.
- Construction of an infill slab to fill existing void;
- Construction of steel stud framing around stairs and new handrails;
- Construction of new sanitary fixtures, tiles and fittings to existing toilets;
- Conversion of existing hair salon to a meeting room. This comprises the construction of a new door, walls and associated infrastructure;
- Conversion of existing sale manager room to sales office. This comprises the construction a new door and walls;
- Construction of a new automatic sliding door and mat in entry room;
- Construction of new walls and doors in reception and associated admin room;
- Construction of new walls, doors and joinery in kiosk room;
- Construction of new resident kitchenette and associated joinery where existing café space is to be demolished; and
- Construction of a new café within part of the resident dining area. This comprises the construction of new walls, doors, joinery and associated infrastructure.

3.1.3. Building Compliance

A Fire Safety Strategy has been prepared by City Plan Services and accompanies this application. The report confirms that the proposed development is capable of complying with the Building Code of Australia and will be subject to further detailed design, prior to the issue of a Construction Certificate.

The attached Fire Safety Strategy also recommends the following:

“It is recommended the completion of the fire safety upgrade works in accordance with the BCA Report prepared by BCA Logic (Ref. No. 101192-r1/ah, dated 8th April 2008 (Refer Attachment 1), Part 4; Upgrading Strategy addressing Fire Upgrading of the subject Building is to be implemented and completed as part of the proposed building alterations and in accordance with Condition 32 of Development Application No. DA2008/0015.

The requirements of the BCA in regard to Part G3 - Atrium Construction and the connection of thee (3) storeys are current (i.e. BCA 2019) consistent with the 2008 BCA standard, therefore the recommendations in the above referenced BCA Logic Report are applicable as the current standard of performance for compliance.”

These works will be carried out as part of the proposal to ensure compliance with the relevant requirements of the BCA and Condition 32 of DA2008/0015.

3.2. PROPOSED AMENDMENTS TO CONDITIONS OF THE CONSENT

The proposed modifications to condition 1 and 32 of the consent to modify the approved architectural plans are shown by a strike through the deleted text and bold red text for new text.

1. *Approved Plans And Supporting Documentation*

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing Number	Dated	Prepared By
23639 WD01 Demolition works ground floor	Sept 07	Designphase
Existing/Demolition Lower Ground Floor Plan	15/10/19	Mostaghim & Associates
23639 WD02 Working drawing demolition works lower ground floor mezzanine	Sept 07	Designphase
Existing/Demolition Ground Floor Plan	15/10/19	Mostaghim & Associates
23639 WD03 Working drawing ground floor	Sept 07	Designphase
Proposed Lower Ground Floor Plan	15/10/19	Mostaghim & Associates
23639 WD04 Working drawing lower ground floor mezzanine level	Sept 07	Designphase
Proposed Ground Floor Plan	15/10/19	Mostaghim & Associates
23639 WD05 Internal elevations	July 07	Designphase
23639 WD06 Fireplace and canopy details	Nov 07	Designphase
23639 WD07 Reception area details	Nov 07	Designphase
23639 WD08 Kiosk details	Nov 07	Designphase
23639 WD17 Site plan	Nov 07	Designphase
23639 WD18 Elevations	Nov 07	Designphase

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

Note: Further information Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

32. Fire Safety Upgrade

*The fire upgrading measures and works to upgrade the building as generally detailed and recommended in the Fire Safety and Building Code of Australia Audit Report prepared by BCA Logic Pty Ltd dated 8 April 2008 and received by Council on 26 May 2008 and **Fire Safety Strategy- opinion dated 24 October 2019 prepared by CityPlan** and including the installation of an AS1670.1-2004 Smoke Detection and Alarm System throughout the entire building are to be implemented prior to the issue of an Interim / Final Occupation Certificate.*

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety. (DACGFfsu)

4. 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.

4.1. MINIMAL ENVIRONMENTAL IMPACT

The proposed modifications to the consent are minor, limited in scale and do not affect the land-uses or building height approved under DA2008/0015. The modifications simply seek to reconfigure the layout of various internal building elements to improve internal circulation and achieve improved internal amenity. It is therefore considered that the proposal will have a negligible impact upon the surrounding environment. This has been further addressed within **Section 5.6** of this letter.

4.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The proposed modifications will result in substantially the same development approved under DA2008/0015. This is because the proposed modifications:

- Do not represent a significant departure from the approved architectural plans or constructed development at the site;
- Do not impact the existing maximum building height at the site;
- Do not result in any changes to the existing land-uses at the site. No new land-uses are proposed;
- Do not generally result in any changes to the external façade of the development; and
- Are only being carried out to improve internal circulation and achieve improved internal amenity.

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.

4.3. 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.

5. 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.

5.1. 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 2**.

Table 2 – WLEP Compliance Table

Clause	Control	Comment	Compliance
Clause 2.2 - Land Use	R2 Low Density Residential	<p>The proposal is for alterations and additions to 'seniors housing' at the site. Within the R2 zone, 'seniors housing' is a prohibited land use. However, Council has historically acknowledged that the site operates under existing use right provisions.</p> <p>In addition, the proposed modifications satisfy each of the R2 zone objectives by providing better facilities and services to meet the day to day needs of residents in a low density residential environment which is characterised by the landscaped setting of the Northern Beaches.</p>	YES - EXISTING USE RIGHTS (see comment below)
Clause 4.3 - Height of Building	8.5m	The proposal does not impact the building height approved under DA2008/0015.	YES
Clause 4.4 - Floor Space Ratio	N/A	The WLEP has not adopted Clause 4.4. Accordingly, a Floor Space Ratio control does not apply to the site and proposal.	YES
Clause 5.10 - Heritage Conservation	Conserve the heritage significance of heritage	The site is not identified as a heritage item or identified as being located in a heritage conservation area. In addition,	YES

Clause	Control	Comment	Compliance
	items and heritage conservation areas.	the site is not located near items of heritage significance or any heritage conservation areas.	
Clause 6.1 - Acid Sulfate Soils	Class 5 Acid Sulfate Soils	Part of the site contains Class 5 Acid Sulfate Soils. However, the proposed development does not include any excavation works that will impact these acid sulfate soils.	YES

The land use benefits from existing use rights, demonstrated as follows:

- DA83/385 dated 13 September 1983 approved the “Housing for aged and disabled persons in 7 stages comprising 35 x 2 bedroom and den, 7 x 2 bedroom, 138 x 1 bedroom and den, 21 x 1 bedroom self contained dwellings, single storey with basement and mezzanine level village centre containing administration and recreational facilities; 2 storey hostel building containing 38 hostel units with ancillary support facilities, basement car parking for 60 vehicles, onsite car parking for 122 vehicles, site landscaping, site works and roadworks; public open space”.

At that time the Warringah Planning Scheme Ordinance 1963 (WPSO) which was in force. WPSO 1963 was in force from 5 June 1963 until it was repealed and superseded by Warringah LEP 1985 on 11 October 1985. A review of the zoning and WPSO reveals that the land was zoned part 2(a) Residential A and part 1(a) Non Urban A.

Of relevance, we also reviewed the Environmental Planning and Assessment Model Provisions 1980 which came into force in 1980, when WPSO was still operational. The Model Provisions included a definition of “*units for aged persons*” and is the applicable definition.

Under Clause 26 of WPSO, the approved Village was permissible with consent as the proposed use was not prohibited under Column V and any other purpose (namely ‘units for aged persons’) is permissible with consent in the 1(a) and 2(a) zone.

- Warringah Local Environmental Plan 2011 (WLEP) came into force on 9 December 2011 and prohibited the site from being used for the purpose of ‘seniors housing’. The site is zoned R2 Low Density Residential and prohibits seniors housing on the site.
- The use of the site has been used continuously as ‘units for aged persons’ (seniors housing) since the original approval in 1983, was lawfully approved under the WPSO, and accordingly, the site benefits from existing use rights.
- The subject DA, DA2008/015 approved for the following works:
 - New balustrade
 - Refurbishment finishes to mezzanine level
 - Infill of void at ground floor level
 - Demolition of non fire isolated stair between lower ground and ground floors
 - Internal alterations to ground and lower ground floors

These works are commensurate with the approved use as seniors housing. The proposed subject modification continues to be consistent with the approved existing use.

Further, as per **Table 2**, the proposal complies with each of the relevant provisions of the WLEP.

5.2. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

No draft environmental planning instruments are relevant to this proposal.

5.3. 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.

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.

5.4. PLANNING AGREEMENT

The proposed modifications do not impact the terms of any Voluntary Planning Agreement.

5.5. REGULATIONS

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

5.6. LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT

5.6.1. Built Form

The proposed works will not generally impact the external built form of the development already approved and constructed under DA2008/0015. 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.

5.6.2. Natural Environment

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

5.6.3. 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 and on-going jobs associated with the operation of the Dee Why Garden Retirement Village. The proposal will also ensure greater internal circulation and an enhanced internal layout for current and future tenants, employees and visitors of the existing central building is provided into the future.

5.7. 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 DA2008/0015. In addition, the proposed modifications are permissible with consent and simply seek to reconfigure various internal building elements on the lower ground and ground floor of the existing central building. Accordingly, the proposed modifications do not create an undesirable precedent and are considered suitable for the site.

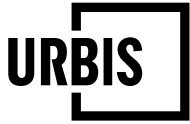
5.8. SUBMISSIONS

It is acknowledged that any submissions arising from the public notification of this application will need to be assessed by Council, although given the minor and internal nature of the proposal public notification is unlikely.

5.9. 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 proposed works will not create any adverse built form impacts; and
- The proposed works 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.



6. CONCLUSION

This Section 4.55(1A) application has been prepared by Urbis Pty Ltd on behalf of Lend Lease Retirement Living to support amendments to the consent for DA2008/0015 to facilitate alterations and additions to the existing central building of Dee Why Gardens Retirement Village at the site and continue with the fire upgrade works.

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 contact Jarred Statham on (02) 8233-7601 or jstatham@urbis.com.au; or Naomi Daley on (02) 8233-9967 or ndaley@urbis.com.au.

Yours sincerely,

A handwritten signature in blue ink that reads "Naomi Daley". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Naomi Daley
Associate Director, Planning