

18 November 2020
2200425

The Chief Executive Officer
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

[att: Ms Lashta Haidari]

Dear Lashta,

SECTION 4.55(1A) MODIFICATION APPLICATION 207 and 199 FOREST WAY, BELROSE (DA2018/1332)

This application has been prepared by Ethos Urban on behalf of Catholic Healthcare Limited (Catholic Healthcare), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify development consent DA2018/1332 relating to the renewal of a part of the Glenaeon Retirement Village at 207 Forest Way, Belrose and the development of a residential care facility (RCF) at 199 Forest Way, Belrose (the Site).

Specifically, the subject modification seeks to amend condition (11) of the DA2018/1332 to amend the bond to state that it must be paid prior to **the relevant** construction certificate relating to any building works (i.e. not demolition or site clearing and not only works adjacent to Forest Way). Once construction starts on the broader development there is a commitment made by the developer to complete all works relating to the DA.

This amendment follows a prior s4.55(1A) modification MOD2020/0365 which sought to amend the condition, however the requested wording was not applied.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in 4.55(1A) of the EP&A Act. It should be read in conjunction with the Statement of Environmental Effects prepared by Ethos Urban dated 10 August 2018.

1.0 Consent to be modified

This application seeks to modify the development consent DA2018/1332 for demolition works and the construction of major additions to Glenaeon Retirement Village (207 Forest Way), including self-contained dwellings and a new residential care facility on a neighbouring lot (199 Forest Way), with associated carparking, landscaping and public road modifications.

This application represents the fifth modification to the approved development consent.

2.0 Proposed modifications to consent

2.1 Proposed modification

This application seeks approval to amend condition 11 of DA2018/1332 (amended by MOD2020/0365) that states:

Condition 11 as per the original DA2018/1332 reads:

*11. Construction, Excavation and Associated Works Bond (Road and footpath reconstruction works)
A Bond of \$150,000 as security against any damage or failure to complete the construction of 1.5m wide footpath in the Forest Way road reserve and part road reconstruction as required part of this consent.*

What Council Approved as per MOD2020/0365:

*11. Construction, Excavation and Associated Works Bond (Road and footpath reconstruction works)
A Bond of \$150,000 as security against any damage or failure to complete the construction of 1.5m wide footpath in the Forest Way road reserve and part road reconstruction as required part of this consent and payable prior to the issue of any construction certificate for the proposed Residential care facility at 199 Forest way Belrose.*

Our proposed the wording for the modification as follows:

What CHL originally sought in the previous s4.55(1A):

*11. Construction, Excavation and Associated Works Bond (Road and footpath reconstruction works)
A Bond of \$150,000 as security against any damage or failure to complete the construction of 1.5m wide footpath in the Forest Way road reserve and part road reconstruction as required part of this consent and payable at the relevant construction certificate for any construction works adjacent or adjoining Forest Way.*

The Council Planning Officers (Lashta Haidari) have indicated their early support for this amendment.

3.0 Substantially the same development

Section 4.55(1) of the EP&A Act states that a consent authority may modify a development consent “to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.”.

The development, as proposed to be modified, is substantially the same development as that originally approved as it relates only to the wording of the condition to clarify the timing of the payment of the Bond – in order to make the condition abundantly clear. The proposed changes to the condition do not alter the intent of the condition which seeks to protect the Council property along Forest Way.

4.0 Environmental assessment

Section 4.55(1) of the EP&A Act states that a consent authority may modify a development consent “involving minor error, misdescription or miscalculation”. As noted above, Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

5.0 Conclusion

This section 4.55(1) modification seeks to modify Condition 11 of the DA consent (DA2018/1332) to amend the \$150,000 bond condition to state that it must be paid prior to **the relevant** construction certificate relation to any building works (i.e. not demolition or site clearing and not only works adjacent to Forest Way). Once construction starts on the broader development there is a commitment made by the developer to complete all works relating to the DA.

We trust that this information is sufficient to enable assessment of the proposed modification application. Should you have any queries regarding this matter, please do not hesitate to contact tgoode@ethosurban.com or 9956 6962.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Goode', followed by a period.

Tom Goode
Director
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