



2 June 2016

DHB:RB\08-164T

The General Manager
Warringah Council
Civic Drive
725 Pittwater Road
Dee Why NSW 2099

Attention: General Manager

Dear Sir/Madam

Re Section 96(1A) Application to modify the consent to DA2013/0825 for alterations and additions at the RSL LifeCare Anzac Village, Veterans Parade, Narrabeen

1. INTRODUCTION

We write on behalf of RSL LifeCare Pty Limited ("the Applicant") to request modifications of consent to DA2013/0825 which was approved by Warringah Council on 25 October 2013 ("the approved development"). The approved development comprised alterations and additions to, and a change of building use of, the existing Tobruk/Wirraway and Catalina/Milne Bay residential aged care buildings which form part of the RSL ANZAC Village located at Veterans Parade, Narrabeen NSW 2101 ("the site").

The Applicant seeks to modify the approved development in accordance with the provisions of Section 96(1A) of the Environmental Planning and Assessment Act 1979 ("the EP&A Act").

The Section 96(1A) application seeks a modification to the approved development consent to provide for the construction of an external timber deck. The proposed modification can be given effect by the inclusion of an additional two drawings to the list of approved plans (endorsed with Council's stamp) pursuant to Condition No 1 ('Approved Plans and Supporting Documentation') of DA2013/0825. The additional drawings to be included are provided at **Appendix 1**.

This application is supported by the following documentation:-

- Environmental Impact Assessment prepared by Ecological Consultants Australia Pty Ltd (provided at **Appendix 2**); and
- Bushfire Hazard Assessment Report prepared by Building Code & Bushfire Hazard Solutions Pty Limited (provided at **Appendix 3**).

The Applicant seeks to modify the approved development in accordance with the provisions of Section 96(1A) of the EP&A Act for the following reasons:-

- the requested modifications will be substantially the same as the development as originally approved; and
- the requested modifications will have no significant adverse environmental impact as detailed in this submission.

The Applicant has instructed BBC Consulting Planners to prepare this submission and the attached supporting information to form part of the Section 96(1A) application.

The application is accompanied by a cheque for the relevant application fee.

2. LAND TO WHICH THE SECTION 96(1A) MODIFICATION RELATES

The land to which the modification relates ("the site") is the Catalina/Milne Bay residential aged care building set within the RSL ANZAC Village at Veterans Parade, Narrabeen. The site forms part of the land to which the approved development relates.

3. CONSENT SOUGHT TO BE MODIFIED

The consent to be modified is DA2013/0825 which approved internal and external alterations and additions to the Tobruk/Wirraway and Catalina/Milne Bay buildings at the RSL ANZAC Village. The alterations and additions included the following works:-

- Construction of roof over pathways throughout the facility;
- Fire sprinkler system installation works as part of a fire safety upgrade;
- Works associated with smoke compartments throughout the facilities; and
- Other minor alterations and additions.

The application was approved by Warringah Council on 25 October 2013.

4. PROPOSED MODIFICATIONS AND JUSTIFICATION

The requested modification seeks a minor addition to the approved alterations and additions and comprises the construction of a new treated merbau timber deck to the east-facing (rear) elevation of the existing lounge room within the Catalina/Milne Bay building.

As indicated on the additional architectural drawings provided at **Appendix 1**, the deck would measure 6000mm in width and 3000mm in width. Due to the site's undulating topography, the deck will be raised from ground level by 100mm steel columns.

Works associated with the proposed deck include the following:-

- Installation of new aluminium framed glazing bushfire screens; and
- Construction of new aluminium balustrade (powdercoated woodland grey).

The requested modification does not require the removal or pruning of any trees.

The proposed modification can be implemented via an amendment to Condition No 1 to DA2013/0825.

Accordingly, this Section 96(1A) application seeks to modify Condition No 1 as detailed below with the additional text and architectural drawings indicated in **bold**.

Architectural Plans – Endorsed with Council's stamp		
Drawing No.	Dated	Prepared by
DA01 – DA11 (Issue A) except where modified by:	June 2013	Humel Architects
DA01 Rev: DA1 – Proposed Site Plan	March 2016	Humel Architects
DA02 Rev: A – Proposed Plan & Northeast Balcony	February 2016	Humel Architects

The additional architectural drawings are provided at **Appendix 1** to this submission.

5. PRESCRIBED FORM

The prescribed requirements for a Section 96(1A) application are established in Clause 115(1) of the Environmental Planning and Assessment Regulation 2000. Warringah Council has integrated these requirements into the application form for its own administrative purposes. A completed copy of this application form accompanies this submission.

6. CONSIDERATION OF RELEVANT PROVISIONS OF SECTION 96(1A)

Relevant Provisions

Section 96(1A) of the Environmental Planning and Assessment Act 1979 states:-

“(1A) Modifications involving minimal environmental impact

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) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (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 that requires the notification or advertising of applications for modification of a development consent, and*
- (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.”*

This application is made pursuant to Section 96(1A) because it is considered that the proposed modification to the approved development has minimal environmental impact.

In relation to Section 96(1A)(b), Warringah Council can be satisfied that the approved development will be essentially the same development when modified in accordance with the requested modification. The modification relates to the construction of a modestly sized timber deck that will provide external amenity space ancillary to the lounge room at the rear of the Catalina/Milne Bay building. The modification has no impact on the other alterations and additions approved pursuant to the original consent. The approved development for alterations and additions will remain essentially the same.

In relation to Section 96(1A)(c), Council may decide to notify the application and invite submissions; however in this instance it is considered that the proposed modifications do not warrant notification.

Section 96(3) of the EP&A Act further states:-

“In determining an application for modification of a consent under this section, 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 following section assesses the proposed modifications under the relevant heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979.

Section 79C(1)(a) – Statutory Planning Considerations

Section 79C(1)(a) of the EP&A Act requires the consent authority to take into consideration:-

“(a) the provisions of:

- i) any environmental planning instrument, and*
- ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- iii) any development control plan, and*
- iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),*

that apply to the land to which the development application relates”

The requested modification does not alter the findings of DA2013/0825 in relation to the assessment of the proposal against relevant environmental planning instruments, including State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the Warringah Local Environmental Plan 2011, and the Warringah Development Control Plan 2011.

Section 79C(1)(b) – Environmental, Social and Economic Impacts

Section 79C(1)(b) of the EP&A Act requires the consent authority to consider:-

“(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.”

Bushfire Impacts

The Bushfire Hazard Assessment Report prepared by Building Code & Bushfire Hazard Solutions Pty Limited as submitted with the original development application has been updated to provide an assessment of the bushfire risks associated with the proposed timber deck. The Assessment Report is provided at **Appendix 3**.

The Assessment Report concludes as follows:-

“The proposed alterations and additions will include the construction of a new balcony and associated works to the Catalina building. The subject site contains existing Special Fire Protection Purpose development and therefore this application has been assessed under the provisions of section 4.2.5 ‘SFPPs as infill’ of PBP.

The proposed works are no closer to the hazard than the existing development and the improvements to Asset Protection Zones alone provide a significantly better outcome than if the development did not proceed. This in itself suggests the application should be approved under the infill provisions of PBP 2006.

It is of our opinion that the proposed development satisfies the intent and performance criteria of section 4.3.5 as required under section 4.2.5 of PBP. Furthermore we are of the opinion that the principles of section 3.3 have been demonstrated to achieve exceptional circumstances, allowing for a reduction in the minimum required setbacks.

In accordance with the bushfire safety measures contained in this report, and consideration of the site specific bushfire risk assessment it is our opinion that when combined, they will provide a reasonable and satisfactory level of bushfire protection to the subject development and also satisfy both the Rural Fire Service’s concerns and those of Council in this area.

We are therefore in support of the development application.”

In this regard, it is considered that the requested modification will have no adverse environmental impacts relating to bushfire hazard. The improvements to the Asset Protection Zones will provide a significantly enhanced outcome for bushfire management.

Impacts on the Natural Environment

An Environmental Impact Assessment has been prepared by Ecological Consultants Australia Pty Ltd (provided at **Appendix 2**) to assess the impacts of the proposed timber deck on the natural environment, in particular with regards to changes to the APZ.

The Environmental Impact Assessment provides the following comments:-

- *“No trees require removal or pruning.*

- *The area is within an already managed APZ (inner and outer) that is described in the BMP for this area.*
- *The 3m extension will see little change to the on-ground works in this area. Much of it is within She-Oaks and ground fuels and shrubs are suppressed by needles. Other parts are wet sclerophyll with cabbage tree palms.*
- *Regular Bush Regeneration works are already occurring in the APZ and neighbouring bushland. Works are monitored by an ecologist and aim to maximise diversity and sustainability of bushland while fulfilling APZ requirements.*
- *Native plant cover and weed removal targets are set out in the Biodiversity Management Plan for this area (Dalby-Ball 2014) and can be achieved within the proposed expanded APZ.*
- *Threatened species habitat is not being removed.”*

In addition to the above comments, the EIS contains detailed recommendations for ecological management to mitigate potential environmental impacts of the proposed deck.

The proposed timber deck has been situated and designed to minimise environmental impact on vegetation, namely remnant canopy trees, understorey vegetation, and ground cover species. No additional tree removals are required and the canopy separation that will occur is due to the existing development and is not altered by the 3 metre balcony extension.

The requested modification will have minor environmental impact as detailed in the EIS.

Social Impacts

As the proposal will provide for additional development to support the existing residential aged care facility, it should be seen as having a positive social impact.

Economic and Social Impacts

The requested modification will have no significant adverse economic impact.

Section 79C(1)(c) – The Suitability of the Site

Section 79C(1)(c) of the EP&A Act requires the consent authority to consider:-

“(c) the suitability of the site for the development”

It is considered that the location of the proposed timber deck is suitable in the context of the site insofar as it will provide external amenity space to the existing lounge room of the Catalina/Milne Bay residential aged care building. The suitability of the Catalina/Milne Bay building and the RSL Anzac Village for the proposed alterations and additions as per the approved development is not altered or diminished by the requested modification.

Section 79C(1)(d) – Submissions

Section 79C(1)(d) of the EP&A Act requires the consent authority to consider:-

“(d) any submissions made in accordance with this Act or the regulations”

Council will need to consider any relevant submissions to the Section 96(1A) application.

Section 79C(1)(e) – The Public Interest

Section 79C(1)(e) of the EP&A Act requires the consent authority to consider:-

“(e) *the public interest.*”

The public interest is generally best served by the requested modification that is reasonable and appropriate in the context of the site and the approved development. The modification is consistent with the ongoing use and function of the Catalina/Milne Bay building and the RSL Anzac Village and does not create any significant adverse impacts on the environment or surrounding land. In this regard, the requested modification is in the public interest.

7. SUMMARY

This Section 96(1A) application seeks approval for a minor modification to DA2013/0825 which approved development for alterations and additions to the RSL Anzac Village. The scope of the requested modification extends to the construction of an external timber deck to provide ancillary amenity space for an existing residential aged care facility. The requested modification can be implemented via the addition of two drawings to the list of approved plans pursuant to Condition No 1 of DA2013/0825.

The Section 96(1A) application is regarded as being suitable for approval because:-


- The development as modified is generally for the same development as the approved development (i.e. minor alterations and additions to the RSL Anzac Village);
- The modification will have no adverse effects on the amenity of adjoining lands; and
- The modification is of minor environmental impact and gives rise to no significant additional impacts (particularly in regards to bushfire hazard and ecological impacts).

The modification for which consent is now sought does not alter the findings made in relation to DA2013/0825 regarding the reasonable and appropriateness of the proposal when considered against relevant matters listed in Section 79C(1) of the Environmental Planning and Assessment Act 1979. The modification will have minimal environmental impact and the development as modified will be substantially the same as the development approved.

We trust that you will find the application acceptable. If any further details are required, or if further justification is required in support of the requested modification, please do not hesitate to contact Rob Battersby or the undersigned on (02) 9211 4099.

Yours faithfully

BBC Consulting Planners



Dan Brindle

Director

Email dan.brindle@bbcplanners.com.au



Appendix 1 – Additional Architectural Drawings



Appendix 2 – Environmental Impact Assessment



Appendix 3 – Bushfire Hazard Assessment Report