

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2012/0244
Responsible Officer	Phil Lane
Land to be developed (Address):	Lot 61 DP 869675 , 155 - 171 Fisher Road North CROMER NSW 2099
Proposed Development:	Section 96(1A) Modification of Development Consent DA2010/1760 granted for - Alterations and additions to an existing Retirement Village (Dee Why Gardens)
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Bril Dee Why 1 Pty Ltd
Applicant:	Bril Dee Why 1 Pty Ltd Bril Dee Why 2 Pty Ltd
Application lodged:	30/11/2012
Application Type	Local
State Reporting Category	Residential - Other
Notified:	10/12/2012 to 14/01/2013
Advertised	Not Advertised in accordance with A.7 of WDCP
Submissions	0

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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

RECOMMENDATION

Approval

SITE DESCRIPTION

Property Description:	Lot 61 DP 869675 , 155 - 171 Fisher Road North CROMER NSW 2099
Detailed Site Description:	The subject land is a 3.142 hectare site developed as a retirement village known as "Dee Why Gardens". The existing buildings were constructed in a hexagonal "pod" cluster arrangement amongst a landscaped setting. A central administrative building containing a reception foyer, communal lounge areas, library, administration offices and a number residential care units forms the focal point for the village. The site is an irregular battle-axe shaped lot with narrow access to Fisher Road and wide rear boundary backing onto a public riparian reserve. The land is therefore affected by Acid Sulphate Soils (Class 5) and the 1:100 flood planning level (FPL). However, the proposed works are within the first floor of the existing main building and not affected by any natural or physical site constraints.

Map:



SITE HISTORY

Modification Application No. Mod2012/0078 for development works to modification of DA2010/1760 that relates to alteration and additions to the subject building approved 3 July 2012:

- Conversion of part of the existing retirement village library area, within the main administration building, to a carer's dwelling unit to provide 24 hour "on-call" staff assistance to residents within the retirement village. In this regard the unit is not specifically for, but is associated with, aged and disabled persons accommodation;
- Internal modifications for installation of bedroom, living room, bathroom, kitchenette facilities; and
- Minor internal changes to internal supporting walls and non-supporting walls for the new unit configuration.

Development Application No.DA2010/1760 for "alterations and additions to an existing Retirement Village (Dee Why Gardens Retirement Village)" was approved by Council on 18th January 2011. The proposal involved renovating the main residential unit building which currently contains 32 single bed units to create 16 x 2 bedroom units. The amalgamation and modernisation of the building complex involved the removal of selected partition walls to consolidate the dwellings and modernise the residential facility. The works were confined to the main building complex that is in a central location within the larger "Dee Why Gardens Retirement Village" and therefore the building works are not readily visible from adjacent public land or the neighbouring properties.

Development Application No.DA2008/0015 for "internal & external alterations & refurbishment of the central community building" was approved by Council on the 1st September 2008

Modification Application No.1999/1255/2 for "an approved SEPP5 Housing Development to alter carparking space No. 12 to a storage area" was approved by Council on 26th June 2003

Modification Application No.1999/1255/1 to "re-orientate Unit 203 & 204; change 4 Units to 3 Units on the first floor within external envelope and add 2 visitor carspaces" was approved by Council on 9th July 2001

Development Application No.DA2007/0094 for "installation of stair climbers to existing units" was approved by Council on the 16th April 2007

Development Application No.DA1999/1255 for a "two storey building with basement carparking " was approved by Council on the 18th October 1999.

PROPOSED DEVELOPMENT IN DETAIL

The proposed alterations and additions consist of the conversion of part an existing library to a carer's unit with a guest suite. There will be only internal modifications, within the new carer's unit a bathroom and kitchen will be added. The new carer's and guest rooms will be fitted each with a bathroom and kitchenette and are located on the first floor level.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

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 DA2010/1760, in full, with amendments detailed and assessed as follows: The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(1A)	Comments
Section 96(1A) (a) – Is the Modification to Consent of Minimal Environmental Impact?	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
Section 96(1A) (b) – Would the consent as proposed to be modified be substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was previously modified?	Yes The modification, as proposed in this application, would result in a development which is substantially the same as that approved in the original Notice of Determination.
Section 96(1A) (c) & (d) – Public Exhibition of subject application / submission	The application was notified under the provisions Clause 90(1) of the EP&A Regulations 2000.
Section 96 (3) - Consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application	See discussion on “Matters for Consideration under Section 79C” in this report.

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 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 relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft	None applicable.

Section 79C 'Matters for Consideration'	Comments
environmental planning instrument	
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><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 of consent.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent/This Clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent/This Clause is not relevant to this application.</p>
Section 79C (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	(i) 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. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (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.

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 Warringah Development Control Plan.

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

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Natural Environment (Biodiversity)	No comments or conditions to the proposed modifications.
Natural Environment (Flood)	No comments or conditions to the proposed modifications.
Natural Environment (Riparian Lands/Creeks)	No comments or conditions to the proposed modifications.
Natural Environment (Drainage Assets)	No comments or conditions to the proposed modifications.
Parks, reserves, beaches, foreshore	Parks Reserves and Foreshores raises no objection to the proposal.

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

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Housing for Seniors or People with a Disability) 2004

The development application has been lodged pursuant to State Environmental Planning Policy

(Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD))
as the development is for "seniors living" housing

Chapter 1 – Preliminary

The aims of the Policy are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) make efficient use of existing infrastructure and services, and
- (c) be of good design.

Comment: The conversion of part of the redundant space within the library area (within the central building) is consistent with the aims of the Policy.

Chapter 2 – Key Concepts

Comment: The proposal is consistent with the key concepts of SEPP HSPD

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The site is 1.2 km from the CBD of Dee Why. There are 2 public bus stops within 100m of the site. Public transport and a village courtesy bus are available to provide access to shops, banks, retail, medical and commercial services in Dee Why. Community services and recreational facilities are	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
		accessible by public transport and a village courtesy bus. Medical and GP services are available in Dee Why and accessible by public transport and a village courtesy bus.	
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	There are 2 public bus stops within 100m of the site.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	N/A	Yes
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Existing and suitably connected.	Yes
29	Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v): i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision, v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	No impact on the surrounding natural environment. All services and infrastructure are accessible within the village and maintained by the village management No change to the exterior of the building is proposed. Therefore, no visual impact to the street or surrounding propoerties	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
		will occur.	
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	Submitted	Yes

Clause 31 Design of in-fill self-care housing

Pursuant to Cause 31 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP HSPD. A detailed assessment of the proposals inconsistencies with regards to the requirements of SLP is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form. Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.	The proposal utilizes the existing internal configuration of the building. The proposal is consistent with the LEP and DCP for character and key elements in land use planning and development control.
2. Site Planning and design	Objectives of this section are to: -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation.	No unreasonable impact will occur to neighbourhood character. No change is proposed to the existing car parking, garaging or vehicle movement infrastructure. Adequate existing staff parking is available for the unit.
3. Impacts on streetscape	Objectives of this section are to: -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape.	The subject building and works are not readily visible from the street. No change is proposed to driveway entries.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	Consistent with minimising impacts on neighbours.
5. Internal site amenity	Objectives of this section are	The proposal is consistent with

Section	Requirements	Comment
	to: -Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	providing safe and easy accessible pedestrian access.

Clause 32 Design of residential development In accordance with Clause 32 of SEPP HSPD a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of SEPP HSPD.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	Consistent with the desirable character of the area.	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	Not applicable	Yes
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls	No change is proposed to setbacks or the building exterior, including roof, height or window spaces.	Yes

Control	Requirement	Proposed	Compliance
	<p>on neighbors.</p> <p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>The works are internal to the village complex and not readily visible to the street.</p> <p>No change to the site landscaping is proposed.</p> <p>No change</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	The works are internal to the village complex and will create no unreasonable impacts with respect to privacy or noise.	Yes
CL35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site	<p>The works are internal to the exiting library / administration building and will maintain satisfactory lighting, solar access and ventilation.</p> <p>The unit is for staff who are on duty as 24 hour "on-call" to assist resident's within the village. No balcony is</p>	Yes

Control	Requirement	Proposed	Compliance
	planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	considered to be warranted for staff accommodation based on the purpose that it is only for staff "on-call" who will reside there while on 24 hour carer's duty.	
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	No change	Yes
CL 37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The works are all internal to the existing library / administration building and will maintain adequate security. The grounds of the village are monitored by village management for security purposes also.	Yes
CL 38 Accessibility	The proposed	N/A - The dwelling units is	Yes

Control	Requirement	Proposed	Compliance
	development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	for staff only who are on 24 hour duty and guests.	
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	All waste management is controlled by the village management services.	Yes

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP HSPD a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP HSPD.

Control	Required	Proposed	Compliance
Site Size	1000 sqm	No change - 3.1HA	Yes
Site frontage	20 metres	No change - > 20m and battle axe shape with 2 access points to Fisher Road.	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	No change to existing building exterior or floor to ceiling heights.	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	N/A	N/A
	A building located in the rear 25% of the site must not exceed 1 storey in height	N/A	N/A

Control	Required	Proposed	Compliance
	(development within 15.51 metres of the rear boundary).		

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.	Existing and no change. Disabled persons access is available throughout the building and throughout the site.	Yes
Security	Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level	Existing no change	Yes
Letterboxes	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the	No change. Mail services are managed by the village administration staff.	Yes

Control	Required	Proposed	Compliance
	street entry.		
Private car accommodation	(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c)any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a power operated door to be installed at a later date.	No change - existing staff parking is provided for all staff.	Yes
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Satisfactory - As detailed on the proposed plans.	Yes
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	N/A Staff facility - As detailed on the proposed plans.	Yes
Bedroom	At least one bedroom within each dwelling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	N/A Staff facility - As detailed on the proposed plans.	Yes
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	N/A. Satisfactory - As detailed on the proposed plans.	Yes
Toilet	The toilet is to comply	N/A. Staff facility - As detailed	Yes

Control	Required	Proposed	Compliance
	with the requirements described in Clause 9 of Schedule 3.	on the proposed plans.	
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	N/A. Staff facility - As detailed on the proposed plans.	Yes
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	N/A. Staff facility - As detailed on the proposed plans.	Yes
Ancillary items	Switches and power points must be provided in accordance with AS4299.	N/A. Staff facility - As detailed on the proposed plans.	Yes
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Satisfactory - As detailed on the proposed plans.	Yes
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	N/A. Staff facility - As detailed on the proposed plans.	Yes
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	N/A. Staff facility - As detailed on the proposed plans.	Yes
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	N/A. Staff facility - Not warranted for bed-sitter staff and guest accommodation.	Yes
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Satisfactory - Minimal storage as detailed on the proposed plans.	Yes
Garbage	A garbage storage area must be provided in an accessible location.	Satisfactory for staff facility - As detailed on the proposed plans.	Yes

Part 5 Development on land adjoining land zoned primarily for urban purposes

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings
In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	Internal building works only.	Yes (No change)
Density and scale	0.5:1	0.71:1	Yes (No change)
Landscaped area	30% of the site area is to be landscaped	No change	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	No change	Yes
Solar access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	Satisfactory. Additional sky lights will be installed as detailed on the proposed plans to improve natural light without having to install new windows. Note: The unit is a carer's unit for staff who are on 24 hour duty for the village therefore it is not occupied by a permanent resident as per a normal dwelling.	Yes

Control	Required	Proposed	Compliance
Private open space	15sqm of private open space per dwelling not less than 3 metres long and 3 metres wide	No. The unit is a Carer's unit for staff only and is not dependant on open space since staff are on duty. No balcony is considered to be warranted for a 24 hour duty accomodation facility for a staff carer's unit for this reason. The dwelling is not for any aged or disabled resident living permanantly within the retirement village.	N/A
Parking	(10 bedrooms proposed – 5 carparking spaces required)	Yes - existing staff parking	Yes
Visitor parking	None required if less than 8 dwellings	No change required	Yes

Chapter 4 – Miscellaneous

Comment: The existing development was approved under State Environmental Planning Policy No. 5 for 239 aged & disabled persons units on a 3.142 hectare site.

The existing buildings were constructed in a hexagonal "pod" cluster arrangement amongst a landscaped setting. The dwelling density was reduced under DA2010/1760 to 0.71 dwellings per 100 sqm (ratio) by the amalgamation of 32 of the selected "assisted living" dwellings into 16 self-contained dwellings. The density was previously 223 dwellings per 3.142 hectares under DA2010/1760.

The total dwellings within Dee Why Gardens will now become:

1 Bedroom Units 29 (increased from 27 to include the staff carer's dwelling and guest dwelling)

2 Bedroom Units 159

3 Bedroom Units 37.

Total 225.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.

- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment: The application was referred to Ausgrid and no response has been received within 21 days statutory period concurrence may be assumed by the Consent Authority.

Warringah Local Environment 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

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A	N/A	N/A		N/A
Height of Buildings:	8.5m	9.8m	No change		Yes
Rural Subdivision:	N/A	N/A	N/A		N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A		N/A

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.1 Land use zones	Yes
2.2 Zoning of land to which Plan applies	Yes
2.3 Zone objectives and Land Use Table	Yes
Part 5 Miscellaneous provisions	Yes
5.3 Development near zone boundaries	Yes
Part 6 Additional Local Provisions	Yes
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

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Standard	Requirement	Approved	Proposed	Complies
Wall height	7.2m	6.3m	No change	Yes
Number of storeys	2	Part 2/part 3 storeys	No change	Yes
Side Boundary Envelope	4m	Within envelope	No change	Yes
Side Boundary Setbacks	0.9m	2.5m (existing buildings)	No change	Yes
Front Boundary Setbacks	6.5m	8m	No change	Yes
Rear Boundary Setbacks	6m	6m	2.5m (existing buildings)	Yes
Landscaped Open Space and Bushland Setting	40% (12568sqm)	18% (5705sqm)	No change	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	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

Warringah Section 94A Development Contribution Plan

Section 94 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.

The proposal has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. 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 specified in S.5(a)(i) and (ii) 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 Modification Application No. Mod2012/0244 for Section 96(1A) Modification of Development Consent DA2010/1760 granted for - Alterations and additions to an existing Retirement Village (Dee Why Gardens) on land at Lot 61 DP 869675,155 - 171 Fisher Road North, CROMER, subject to the conditions printed below:

A. Replace Condition No.1B - 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Overall Site Plan - First Floor (DA-01)	07-11-12	Gilsenan Associates
Floor Plan, Kitchen & Joinries	07-11-12	Gilsenan Associates
Carer's Unit External Wall Elevation	07-11-12	Gilsenan Associates
RCP Electrical Layout Plan	07-11-12	Gilsenan Associates

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed


Phil Lane, Senior Development Assessment Officer

The application is determined under the delegated authority of:


Steven Findlay, Development Assessment Manager













ATTACHMENT A

Notification Plan	Title	Date
 2012/414281	plans notification	03/12/2012

ATTACHMENT B

Notification Document	Title	Date
 2012/421265	Notification map	10/12/2012

ATTACHMENT C

Reference Number	Document	Date
 2012/413172	invoice for ram applications - Bril Dee Why 1 Pty Ltd	30/11/2012
 2012/413176	DA Acknowledgement Letter - Bril Dee Why 2 Pty Ltd - Bril Dee Why 1 Pty Ltd	30/11/2012
 2012/414277	modification application form	03/12/2012
 2012/414279	applicant details	03/12/2012
 2012/414281	plans notification	03/12/2012
 2012/418350	File Cover	06/12/2012
 2012/418628	Referral to AUSGRID - SEPP - Infrastructure 2007	06/12/2012
 2012/421252	Notification Letters - 25	10/12/2012
 2012/421265	Notification map	10/12/2012
 2012/433879	Parks, Reserves and Foreshores Referral Response	31/12/2012