

13 December 2021

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

## **SECTION 4.55(1A) MODIFICATION APPLICATION TO DA2018/1332 Glenaeon Retirement Village – 199 & 207 Forest Way, Belrose**

This application has been prepared by Ethos Urban on behalf of Lendlease-Retirement Living (LL-RL) 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 Glenaeon Retirement Village at 199 & 207 Forest Way, Belrose (the site).

As discussed in **Section 2.0**, the proposed modification seeks consent for the provision and construction of 5 and garages, new potable water generator and removal of the Building D detention basin. This application should be read in conjunction with the following supporting documents:

- Architectural Plans prepared by PTW (**Attachment A**);
- Landscape Plans prepared by Scape Design (**Attachment B**);
- Civil Plans prepared by Cardno (**Attachment C**);
- Civil and Traffic Statement prepared by Cardno (**Attachment D**);
- Bushfire Statement prepared by Building Code & Bushfire Hazard Solutions (**Attachment E**); and
- Arboricultural Site Audit prepared by Footprint Green (**Attachment F**).

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 4.55(1A) of the EP&A Act.

### **1.0 Consent Proposed to be Modified**

Development consent DA2018/1332 was granted by the Sydney North Planning Panel on 1 May 2019 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 consent has been previously modified as follows:

- Section 4.55(1a) Modification Application (Mod2019/0307), which was approved by Council on 1 August 2019, and amended a number of conditions to enable the staging of Construction Certificates and Occupation Certificates for the development; and
- Section 4.55(1a) Modification Application (Mod2019/0308), which was approved by Council on 1 August 2019, and removed the requirement to provide Section 7.12 developer contributions on the grounds that the facility is to be run by a not-for-profit service provider; Catholic Healthcare.
- Section 4.55(1A) Modification Application (Mod2020/0299) which was approved on 6 October 2020 and relates to minor design development refinements and discrepancies in the approved architectural plans;
- Section 4.55(1A) Modification Application (Mod2020/0365) which was approved on 30 September 2020 and relates to amendments to condition 11 of the development consent;
- Section 4.55(1A) Modification Application (Mod2020/0508) which was approved by Council on 19 November 2020 for the removal of one tree to allow for the installation of an Ausgrid substation.

- Section 4.55(1A) Modification Application (Mod2020/0624) which was approved by Council on 10 December 2020 for amendments to conditions 11 relating to road and footpath reconstruction works;
- Section 4.55(2) Modification Application (Mod2020/0431), was refused by the Sydney North Planning Panel on 27 January 2021.

This application represents the eighth (8) modification application to date.

## 2.0 Description of Proposed Modifications

The proposed modifications to DA2018/1332 are illustrated in the updated Architectural Plans prepared by PTW and included at **Attachment A** and other supporting subconsultant technical reports and plans.

The proposed modification relates to the following amendments:

- 5 new garages to replace 8 garages that were approved in the original development application;
- New potable water generator;
- Removal of the remainder of the Building D detention basin in lieu of retaining the existing detention basin; and
- Minor updates to the landscape scheme.

### Car Parking

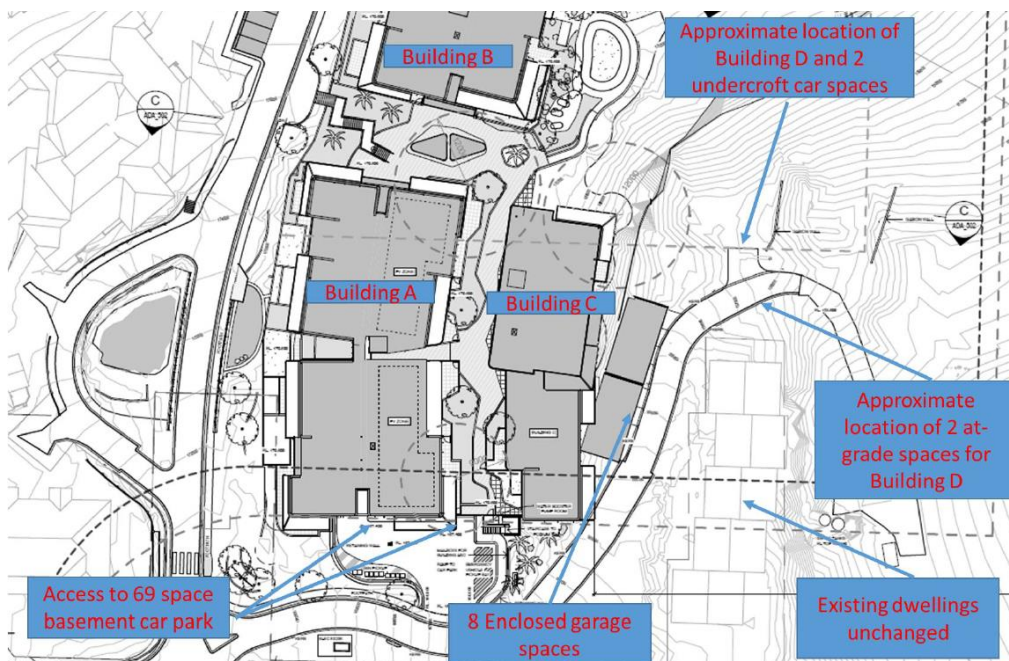
Building D was previously proposed as part of the original development application (DA2018/1332) which accounted for 5 dwellings. The car parking provision provided for a total of 69 car parking spaces within the basement under Building A and an additional 12 spaces accessed from an internal roadway which was associated with Building D and the retained units 1-9. The development consent required the deletion of Building D, however there was no change to the overall car parking provision.

Therefore, the deletion of Building D comprising 5 dwellings requires the removal of 7 on-site car spaces. This however results in the retention of the basement car park (unchanged) of 69 spaces and 5 garaged spaces accessed via the internal road (which are provided for the retained existing dwellings opposite).

This amendment will ensure consistency with the development consent to remove 7 car spaces associated with Building D. All other details of car parking associated with the approved development for Buildings A to C remain unchanged.

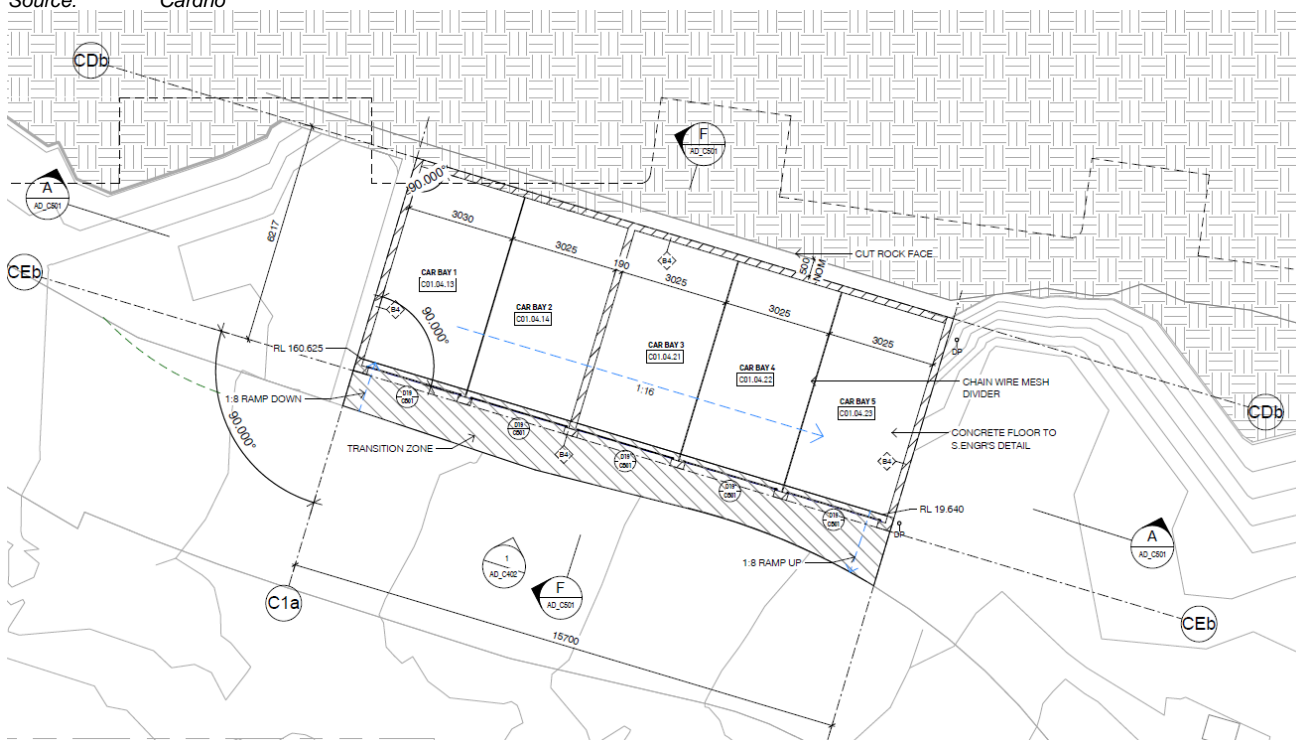
These 5 garages will be within 6m of Building C at the bottom of the rock face on the realigned road and will be designed in accordance with the relevant Australian Standards and bushfire protection standards.

The proposed location and design of the car spaces are shown at **Figure 1-Figure 3** below and included on the Architectural Plans at **Attachment A** and Landscape Plans at **Attachment B**.



**Figure 1** Approved site layout and located of car spaces

Source: Cardno



**Figure 2** Proposed Building C garages

Source: PTW



**Figure 3 Proposed Building C garage elevation (garages bubbled)**

Source: PTW

### Landscape Scheme

While the proposed landscaping strategy has been further refined, the overall concept and design intent remains the same as that which was originally approved. The proposed landscape design seeks to further enhance user experience and create connections with the surrounding community. Specifically, the proposal will retain the key features of the approved development, including the walkways and turfed areas and courtyards, however, will introduce the following elements to ensure appropriate accessibility for all users:

- Pedestrian bridge realigned to Level 3;
- New potable water generator adjacent to the Building A driveway and basement car parking;
- Minor realignment of terraces facing the driveway on Building A;
- Revised plank finish to the grand staircase and bridge; and
- Minor adjustments on walkway to main path near veggie gardens.

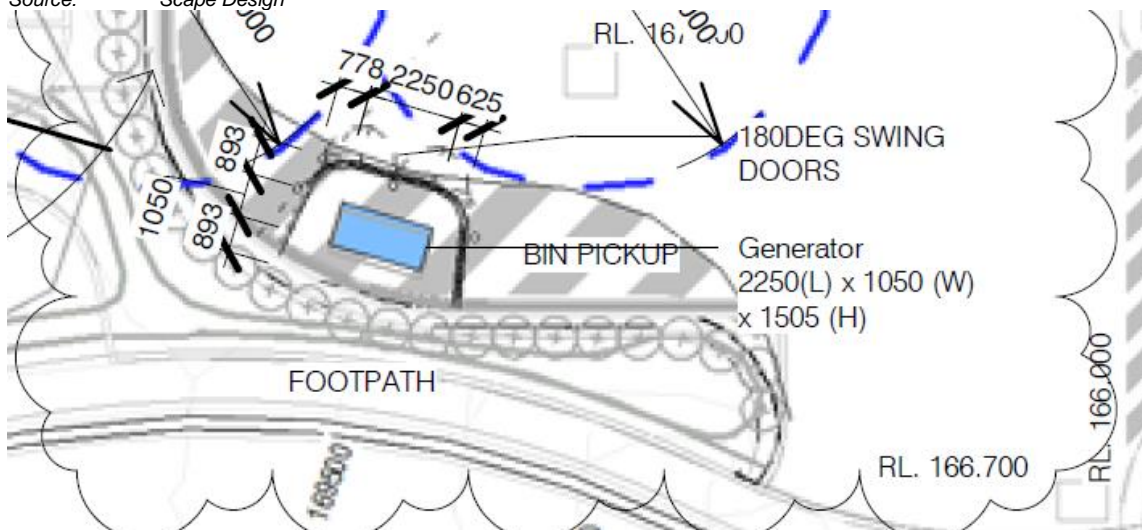
The revised landscaping scheme is shown on the updated Landscape Plans prepared by Scape Design at **Attachment B**. The overall landscape site layout is shown in **Figure 4** below. The proposed changes are bubbled red.



**Figure 4** Proposed landscape design

Source:

Scape Design



**Figure 5** Proposed location of potable water generator with bollard protection

Source:

PTW

## Detention Basin

The proposal will remove the Building D detention basin as Building D has been deleted and will make use of the existing detention basin on site. The existing bushland will be retained as maintained bushland in place of the removal of the detention basin.

## Tree Removal

As a result of recent storm events, there have been various misadventures. The Arboricultural Site Audit (**Attachment F**) details the recent storm events and impacts on Tree No. 126. During a storm event over the weekend 31st October & 1st November 2020, Tree No. 126 failed at the base. It is noted that Tree No. 126 was identified as being retained in the Arboricultural Impact Assessment prepared by Footprint Green and dated

31/07/2018, however, given it failed during a storm event and suffered substantial damage it no longer exists and tree protection measures are no longer required. The substantial damage as a result of the storm event is shown at **Figure 5** below.



**Figure 6** Tree no. 126 storm damage

Source: Lendlease / Footprint Green

### 3.0 Proposed modifications to the consent

#### 3.1 Modifications to conditions

The proposed modification requires amendments to the conditions of consent. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***. For clarity, only those plans and documents subject to change have been included below.

1. *Approved Plans and Supporting Documentation*  
*The development must be carried out in compliance (except as amended by any other condition of consent) with the following:*
  - a) *Approved Plans*

Architectural Plans – 207 Forest Way, Belrose		
Drawing No.	Dated	Prepared By
No.003 – Rev <del>019</del> Site Plan	13/12/2021	PTW Architects
No.007 - Rev- <del>4</del> <del>08</del> Site Plan RL 160.10	<del>08/08/2018</del> 13/12/2021	PTW Architects
No.009 - Rev- <del>4</del> <del>09</del> Site Plan RL 164.30	<del>08/08/2018</del> 13/12/2021	PTW Architects
No.402 - Rev <del>4-09</del> Site Elevations	<del>30/04/2021</del> 13/12/2021	PTW Architects
No.501 – Rev <del>06</del> <del>09</del> <b><i>Building C Sections – Garages</i></b>	<del>30/04/2021</del> 13/12/2021	PTW Architects
<b><i>C1B1_00 Rev: 015 Building C – GA – Car Park Plan</i></b>	13/12/2021	PTW Architects
<b><i>C402 Rev: 011 Building C – Elevation – Carpark</i></b>	13/12/2021	PTW Architects

Architectural Plans – 207 Forest Way, Belrose		
Landscape Plans – 207 Forest Way, Belrose		
LD_00_Coversheet <b>Revision 12:</b> Coversheet	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_000_00 <b>Revision 19:</b> Landscape Sketch Plan	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_000_01 <b>Revision 08:</b> Plant Theming Plan	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_000_02 <b>Revision 06:</b> Landscape Spatial Plan	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_000_07: <b>Revision 03:</b> Materials Palette	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_200_01 <b>Revision 09:</b> Landscape Detail Plan 1	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_200_02 <b>Revision 09:</b> Landscape Detail Plan 2	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_200_03 <b>Revision 09:</b> Landscape Detail Plan 3	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_500_01 <b>Revision 06:</b> Landscape Sections 1	<del>26/07/2018</del> 8/11/21	Scape Design
LDA_500_02 <b>Revision 06:</b> Landscape Sections 2	<del>26/07/2018</del> 8/11/21	Scape Design

Reason: This condition is proposed to be amended to adequately reflect the modified plans.

## 4.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*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)*”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed alterations do not substantially change the whole or essential character of the approved development. The development is consistent with that originally approved, self contained dwellings, car spaces, and the construction of a new residential aged care facility on the neighbouring lot;
- The modifications do not result in an increase the maximum height of buildings, or alter the approved floor space, and will not result in any changes to the approved buildings; and
- The qualitatively essential parts of the approved development all remain in intact, including the overall built form and urban design, the impacts on surrounding development, traffic and parking, public domain, and residential amenity.

The proposed modification is in simple terms a result of design development refinement and merely relates to materiality changes.

## 5.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The proposed modification will not give rise to any environmental impacts outside of those already assessed in the original SEE. Likewise, the proposed modifications do not affect the approved development’s compliance with the relevant planning instruments as follows:

- *Water Management Act 2000*;
- *Rural Fire Services Act 1997*;
- *Biodiversity Conservation Act 2016*;
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP Seniors);
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Building* (SEPP 65);
- *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55);
- *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP);
- *State Environmental Planning Policy (BASIX) 2004* (SEPP BASIX);
- *Warringah Local Environmental Plan 2000* (WLEP 2000); and
- *Warringah Local Environmental Plan 2011* (WLEP 2011).

### 5.1 Built Form

The general built form and urban design of the development remains consistent with that which was originally proposed. The proposed modification will not substantially alter the development’s built form when viewed from the public domain or in communal open space, but rather will provide an improved landscape design and to suit servicing requirements. It will remove redundant features that relate to Building D which is no longer being developed.

### 5.2 Bushfire

A Bushfire Statement has been prepared by Building Code & Bushfire Hazard Solutions and is included at **Attachment E**. The Statement has assessed the location of the proposed new garages as they are located within 6m of a habitable building and therefore require assessment under Planning for Bushfire Protection 2019.

The highest Bushfire Attack Level to the proposed garages was determined to be BAL 29. The proposed garages must be constructed to sections 3 and 7 (BAL 29) under AS 3959 – 2018 and the additional construction requirements detailed in section 7.5 of PBP.

### 5.3 Impact on surrounding development

As discussed, the proposed modifications do not comprise any significant external changes that would alter the bulk or scale of the approved buildings on the site. Accordingly, the proposal will not change the approved impacts to surrounding development in terms of overshadowing, privacy or visual impacts or view sharing.

### 5.4 Site Suitability and Public Interest

The site remains suitable for the proposed development give that:

- The development will continue to accelerate the supply of seniors housing commensurate to the forecast demand for the LGA, within an existing village and long standing seniors community;

- The site is well situated in proximity to public transport and is regularly serviced by an array of bus routes that connect the site to Sydney CBD, Chatswood, Frenchs Forest and Terry Hills;
- The proposed development appropriately manages the site sensitivities and constraints; and
- The development is permissible under the B2 Oxford Falls Locality and is consistent with the Desired Future Character Statement.

## 5.5 Reasons given for granting consent

In accordance with Section 4.55(3) of the Act, the consent authority is required to take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. The Planning Panel's reasons for granting consent have been summarised below:

- the social benefit of a residential care facility being on the same site as a retirement village with independent living units;
- the panel considered that use was permissible under the Warringah LEP 2000; and
- the panel considered that the proposal is consistent with the desired future character within the B2 Locality.

The minor proposed modifications will not undermine these original reasons for granting consent. The proposed changes do not alter the positive social benefits of the development, the permissibility of the development, or the development's adherence to the desired future character of the area.

## 6.0 Conclusion

The proposed modifications relate to minor amendments to the car parking provision and layout and the landscaping scheme. These proposed modifications do not impinge on the approved bulk and scale, capacity of intended operation of the approved development. The proposed development remains substantially the same as that approved, and the proposed changes will not significantly or adversely alter the approved environmental impacts of the development.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- it is substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



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