

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

| | |
|---|---|
| Application Number: | Mod2019/0642 |
| Responsible Officer: | Phil Lane |
| Land to be developed (Address): | Lot 61 DP 869675, 155 - 171 Fisher Road North CROMER NSW 2099 |
| Proposed Development: | Modification of Development Consent DA2008/0015 granted for Internal external alterations refurbishment of the central community building |
| Zoning: | Warringah LEP2011 - Land zoned R2 Low Density Residential |
| Development Permissible: | No |
| Existing Use Rights: | Yes |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Bril Dee Why 1 Pty Ltd Lendlease Retirement Living Holding Pty Ltd |
| Applicant: | Urbis Pty Ltd Lendlease Retirement Living Holding Pty Ltd |

| | |
|----------------------------------|------------------------------|
| Application Lodged: | 17/12/2019 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Seniors Living |
| Notified: | 14/01/2020 to 28/01/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

PROPOSED DEVELOPMENT IN DETAIL

"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.

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.

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."

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 the subject site and adjoining, surrounding and nearby properties;

- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

SITE DESCRIPTION

| | |
|-----------------------------------|---|
| Property Description: | Lot 61 DP 869675 , 155 - 171 Fisher Road North CROMER NSW 2099 |
| Detailed Site Description: | <p>The site has a registered title of Lot 61 DP 869675, and is commonly known as No.155-171 Fisher Road North, Cromer. The site is located on the eastern side of the street and the entry to the site is located between Carawa Road and Tennyson Road.</p> <p>The site is irregular in shape with a total site area of 3.14 hectares. It is currently occupied by Dee Why Gardens Retirement Village. It includes self care and assisted care units for residents, and other services including a hairdresser, podiatrist, shop and library.</p> <p>The site is zoned R2 Low Density Residential zone within the Warringah Local Environmental Plan 2011.</p> |

Map:



SITE HISTORY

DA2008/0015 - Alterations and additions to the central building of an existing retirement village as follows:-

"External works include:

- *New landscaping to the existing traffic island in front of the entrance.*
- *Demolition of two mail enclosures in proximity to the building*
- *Alterations to the existing canopy at the entrance and a new canopy that would align with the existing overhang and wall, together with a new concrete podium and truss supports. It will have a timber cement facing with selected applied finish.*
- *Enclosure of the existing exterior stairs to the north of the building. It will have a flat roof, fixed glazing, and new rainwater head and down pipe.*

Internal works on the lower ground floor include:

- *New landscaping to the existing sun court.*
- *Replacement of partitions*
- *Internal reconfigurations to form rooms for gym, consulting, crafts, store and hair dresser*
- *Demolition of the existing stair*

Internal works on the mezzanine include:

- *Replacement of partitions and new doors/ openings*
- *Internal reconfiguration*
- *Replacement of balustrade*

Internal works on the ground floor include:

- *Replacement of partitions*
- *Internal reconfigurations to form rooms for carers, sales, reception, staffs, kiosk, mail*
- *Internal reconfigurations to fire place, cool room, disabled toilets, laundry*
- *Demolition of the existing stair and infill."*

This Development Application was approved 1 September 2008.

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 DA2008/0015, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.55(1A) - Other Modifications | Comments |
|---|---|
| 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 | Yes The modification, as proposed in this application, is considered to be of minimal environmental impact. |
| (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and | The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2008/0015. |
| (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 under section 72 that requires the notification or advertising of applications for modification | The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan. |

| Section 4.55(1A) - Other Modifications | Comments |
|--|---|
| 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. | No submissions were received in relation to this application. |

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.15 'Matters for Consideration' | Comments |
|---|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (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 in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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 in the original consent.</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 in the original consent and will also be conditioned by this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a</p> |

| Section 4.15 'Matters for Consideration' | Comments |
|--|--|
| | condition in the original consent. |
| Section 4.15 (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 | <p>(i) Environmental Impact 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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (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

- Does the existing use satisfy the definition of "existing use" under the *Environmental Planning and Assessment Act 1979* (the 'Act')?

Section 4.65 of the Act defines an existing use as:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

- (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
- (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered:

1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

Comment:

The Applicant has provided evidence in the form of development consent (DA83/385 approved 13 September 1983 for *"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"*, which reveals that the use of the building / work / land commenced as a lawful purpose on 13 September 1983, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

2. Was the use of the building / work / land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment: DA83/385 approved 13 September 1983 for *"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"*

The use of the building / work / land was lawfully approved by Council on 13 September 1983, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

3. Has the use of the building / work / land been carried out within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Comment:

The Applicant has provided evidence in the form of DA83/385, which reveals that the use of the building / work / land was carried out on 13 September 1983, which is within one year from the date on which the provision having the effect of prohibiting the use commenced.

- **What is "the land on which the existing use was carried out" for the purposes of cl 42(2) (b) of the Environmental Planning and Assessment Regulation 2000 ("the Regulation")?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: *"if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose"*.

Comment:

Having regard to the above case law, it is noted that the whole of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council (2005) NSWLEC 71*, sets out the planning principles that should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the NSW Land and Environment Court in this case will have general application in dealing with development applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment: The proposed works are contained within the existing central community building and do not alter the existing height or setbacks. It is considered that the proposal relates to the surrounding sites.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment: The existing external parts of the building will be unaltered and only internal alterations are proposed as part of this application. The use(s) of the building will also remain unaltered.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment: As stated previously the external parts of the building remain unaltered and it is considered that there will be minimal impacts on adjoining and surrounding lands.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal

principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment: 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 DA2008/0015 to modify the layout of the internal refurbishment works, delete front entry external works and continue with the fire upgrade works.

Conclusion

The use has been approved under a previous environmental planning instrument () and, therefore, is a lawful use. Subsequently, the use can be retained under the current environmental planning instrument WLEP 2011.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

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 the relevant Development Control Plan.

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

REFERRALS

| Internal Referral Body | Comments |
|--|---|
| Building Assessment - Fire and Disability upgrades | <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> |
| NECC (Bushland and Biodiversity) | <p>As this application proposes internal modifications within the existing building footprint it is unlikely that there will be an adverse significant impact to the existing biodiversity values of the site and surrounding locality.</p> <p>Therefore this application is recommended for approval without conditions.</p> |
| NECC (Riparian Lands and Creeks) | <p>This application has been assessed against:</p> <p>Warringah Development Control Plan 2011 E8 - Waterways and Riparian lands</p> |

| Internal Referral Body | Comments |
|---|---|
| | <p>As this application proposes internal modifications within the existing building footprint it is unlikely that there will be an adverse impact to the integrity and resilience of the surrounding waterways.</p> <p>Therefore this application is recommended for approval without conditions.</p> |
| NECC (Stormwater and Floodplain Engineering – Flood risk) | The proposed development is not considered to increase flood risk. |

| 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 (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 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.

Warringah Local Environmental Plan 2011

| | |
|--|-----|
| Is the development permissible? | No |
| 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 |
|----------------------|-------------|----------|----------|-------------|----------|
| Height of Buildings: | 8.5m | 4.5m | 7.4m | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| Part 1 Preliminary | Yes |
| Land Use Table | Yes |
| Part 4 Principal development standards | Yes |
| 4.3 Height of buildings | Yes |
| Part 6 Additional Local Provisions | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |

Detailed Assessment

Zone R2 Low Density Residential

| Land use definition: WLEP 2011 | Permitted or Prohibited |
|--------------------------------|----------------------------------|
| Seniors Living | Prohibited (existing use rights) |

The underlying objectives of the R2 Low Density Residential zone:

- To provide for the housing needs of the community within a low density residential environment.*

Comment: The existing seniors housing provides housing needs of the aged population within a low density residential environment.

It is considered that the development satisfies this objective.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The existing senior housing facility provides other services within the complex such as a cafe, salon and kiosk.

It is considered that the development satisfies this objective.

- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment: The existing landscape area and trees/plants will be unaltered by the proposed modifications to the central community building.

It is considered that the development satisfies this objective.

Warringah Development Control Plan

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| Part A Introduction | Yes | Yes |
| A.5 Objectives | Yes | Yes |
| Part C Siting Factors | Yes | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | Yes | Yes |
| C4 Stormwater | Yes | Yes |
| C5 Erosion and Sedimentation | Yes | Yes |
| C6 Building over or adjacent to Constructed Council Drainage Easements | Yes | Yes |
| C7 Excavation and Landfill | Yes | Yes |
| C8 Demolition and Construction | Yes | Yes |
| C9 Waste Management | Yes | Yes |
| Part D Design | Yes | Yes |
| D2 Private Open Space | Yes | Yes |
| D3 Noise | Yes | Yes |
| | | |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| D6 Access to Sunlight | Yes | Yes |
| D7 Views | Yes | Yes |
| D8 Privacy | Yes | Yes |
| D9 Building Bulk | Yes | Yes |
| D10 Building Colours and Materials | Yes | Yes |
| D12 Glare and Reflection | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| D20 Safety and Security | Yes | Yes |
| D22 Conservation of Energy and Water | Yes | Yes |
| Part E The Natural Environment | Yes | Yes |
| E1 Preservation of Trees or Bushland Vegetation | Yes | Yes |
| E2 Prescribed Vegetation | Yes | Yes |
| E4 Wildlife Corridors | Yes | Yes |
| E6 Retaining unique environmental features | Yes | Yes |
| E7 Development on land adjoining public open space | Yes | Yes |
| E8 Waterways and Riparian Lands | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |
| E11 Flood Prone Land | 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

Northern Beaches Section 7.12 Contributions Plan 2019

Section 7.12 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.

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 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 to Modification Application No. Mod2019/0642 for Modification of Development Consent DA2008/0015 granted for Internal external alterations refurbishment of the central community building on land at Lot 61 DP 869675,155 - 171 Fisher Road North, CROMER, subject to the conditions printed below:

A. Add Condition No. 1A - 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 |
| DA 01 | 15 October 2019 | Mostaghim & Associates |
| DA 02 | 15 October 2019 | Mostaghim & Associates |
| DA 03 | 15 October 2019 | Mostaghim & Associates |
| DA 04 | 15 October 2019 | Mostaghim & Associates |
| DA 05 | 15 October 2019 | Mostaghim & Associates |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|--|--------------|-------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| BCA Logic | 8 April 2008 | BCA Logic |

| | | |
|----------------------|-----------------|-----------|
| Fire Safety Strategy | 24 October 2019 | City Plan |
|----------------------|-----------------|-----------|

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

c) The development is to be undertaken generally in accordance with the following:

| Waste Management Plan | | |
|-----------------------|------------------|--------------|
| Drawing No. | Dated | Prepared By |
| Waste Management Plan | 12 December 2019 | Race Treloar |

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

B. Add Condition 5A - Section 4.55 Modifications

Works in connection with this Section 4.55 (Previously S.96) modification are not to be commenced/carried out until a new/modified Construction Certificate is issued for the modified building works.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 4.55 modifications involving changes in the design of the development.

C. Modify Condition 32 - Fire Safety Upgrade to read as follows:

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 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 any Occupation Certificate.

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

D. Modify Condition 33 - Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and

Assessment Regulation 2000.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Phil Lane, Principal Planner

The application is determined on 13/02/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments