

## RESIDENTIAL DEVELOPMENT – S96 (1A) APPLICATION ASSESSMENT REPORT

<b>Modification Application Number:</b>	MOD2019/0308
<b>Development Application Number:</b>	DA2018/1332
<b>Planner:</b>	Catriona Shirley
<b>Property Address:</b>	Lot 100 DP 1114910, 207 Forest Way Belrose NSW 2085 Lot 7 DP 807906, 199 Forest Way Belrose NSW 2085
<b>Proposal Description:</b>	Modification of Development Consent DA2018/1332 granted for construction of major additions to Glenaeon Retirement Village
<b>Recommendation:</b>	APPROVED
<b>Clause 20 Variation:</b>	No
<b>Proposal in Detail:</b>	<p>The application is made pursuant to Section 96(1A) of the Environmental Planning &amp; Assessment Act 1979.</p> <p>The modification seeks the approval to amend condition (9) of DA2018/1332 to exclude the residential care facility at 199 Forest Way from the calculation of the Section 7.12 levy, in line with the Ministerial Direction dated 14 September 2007 (Ministerial Direction) made pursuant to section 7.17 (previously section 94E) that provides exemptions to developer contributions for certain seniors housing developments.</p> <p>The Sydney North Planning Panel approved the Development Application da2018/1332 on the 1 May 2019. The determination and Statement of Reasons issued by the Sydney North Planning Panel noted that:</p> <ul style="list-style-type: none"><li>• <i>"Condition 9 remains as the council has no written evidence that the development will be run by a not-for-profit service provider. On receipt of such evidence, the applicant may apply for the deletion of this condition."</i></li></ul> <p>The applicant has submitted written evidence prepared by Allens dated 19 June 2019 confirming that Catholic Healthcare will be the operator of the approved RCF and its status as a social housing provider as defined by SEPP (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors).</p>
<b>History and Background:</b>	<p>The site known as 207 Forest Way, Belrose was the subject of Development Consent (No.1982/116), dated 1 October 1982 for:</p> <p>The use of the site as "Housing for aged persons, incorporating 100 self-care units being 92 single storey, semi-detached and 8 single storey detached 1, 2, or 3 bedroom villas; part single part two storey building containing 50 bed nursing home and 50 unit aged persons hostel; two storey administration and community centre". The development consent was acted upon and a number of other modifications associated with the aged care use were subsequently issued by the former Warringah Council, which included:</p> <ul style="list-style-type: none"><li>• <i>Housing for aged and disabled persons incorporating 140 self-care units, a 50 unit aged persons hostel with associated administrative</i></li></ul>

and community centre (12 July 1984, 31 January 1985 and 20 February 1986).

- *Housing for aged and disabled persons incorporating 137 self-care units, 51 aged persons hostel building with 2 bed rehabilitation ward, and an administrative and community centre building (5 December 1989).*

The above consent was issued by Council under the provision of former State Environmental Planning Policy No 5 (SEPP 5).

SEPP No.5 (Amendment 1), was gazetted on 7th October 1983, with the effect, inter alia, of prohibiting housing for aged or disabled persons on land which is not within or adjoining land zoned for urban uses. The above consent was granted because the development application was lodged before the gazettal of SEPP 5 (Amendment 1), and therefore saved by the saving provision at that time.

Following that approval, the Village expended through time and there has been a number of Development Applications lodged and approved by Council.

- A Pre-Lodgement meeting PLM2016/0125 was held on the 20 December 2016 for part redevelopment of the existing Glenaeon Retirement Village site at 207 Forest Way and the Construction of three storey building for Housing for Older People or People with a Disability at 199 Forest Way.
- A Pre-Lodgement meeting PLM2017/0060 was held on the 23 June 2017 for the rezone the site and Glenaeon Village to align with the Council Prepared Planning Proposal at Gateway and increase the height on Glenaeon to 11m under Warringah LEP 2011. This approach was not supported by Northern Beaches Council.
- A Pre-Lodgement meeting PLM2018/0145 was held on the 2 August 2018 to discuss the final plans prior to the lodgement of the Development Application.
- Application DA2018/1332 for the demolition works and construction of major additions to Glenaeon Retirement Village, including self-contained dwellings and a new residential care facility on a neighbouring lot, with associated car parking, landscaping and public road modifications was approved by the Sydney North Planning Panel on the 1 May 2019.
- Modification DA2019/0307 to modifying the DA consent (DA2018/1332) to allow for staged construction and occupation of the development is currently being assessed by Northern Beaches Council.

## Modification Report Reference

Title	Date	Prepared By
Report regarding status of Social Housing Provider	19 June 2019	Felicity Rourke

Report Section	Applicable – Yes or No
Section 1 – Code Assessment	Yes

Section 2 – Issues Assessment	Yes
Section 3 – Site Inspection	N/A

<b>Notification Required:</b>	No	N/A
<b>Submissions Received:</b>	-	-
<b>Cost of Works:</b>	\$34,745,447.00	
<b>Section 94A Applicable:</b>	No	<b>TOTAL:</b> N/A

<b>Section 96(1A) EPA ACT 1979</b>	
Section 96(1A) (a) – Is the Modification to consent of Minimal Environmental impact?	Yes
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?	No
Section 96(1A) (c) & (d) – Has the application been on Public Exhibition?	Yes
Have you considered any submissions?	Yes
Section 96 (3) – Have you considered such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application	Yes

## SECTION 1 – CODE ASSESSMENT REPORT

### ENVIRONMENTAL PLANNING INSTRUMENTS

#### Warringah Local Environmental Plan 2000

<b>Locality:</b>	B2 Oxford Falls Valley
<b>Development Definition:</b>	Housing for older people and people with a disability (Seniors Housing)
<b>Category of Development:</b>	Category 2

#### Desired Future Character Statement:

*“The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.*

*Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from*

*Narrabeen Lagoon and the Wakehurst Parkway.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged. A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained..”*

**Is the proposed modification consistent with the Locality’s Desired Future Character Statement?**

The assessment of the modified application concludes there is no change to development, thus there is no change to the consistency with the locality’s Desired Future Character or the General Principles of Development Control under WLEP 2000.

**BUILT FORM CONTROLS**

There are no proposed changes to the built form controls as a result of this modification.

**GENERAL PRINCIPLES OF DEVELOPMENT CONTROL**

There are no proposed changes to the General Principals of Development as a result of this modification.

**SCHEDULES**

Schedule	Applicable	Compliant
Schedule 5 State Policies	Yes	Yes
Schedule 8 Site analysis	Yes	Yes
Schedule 16 – Principals and Standards for Housing for Older People or People with Disabilities	Yes	Yes

**OTHER RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS:**

STATE ENVIRONMENTAL PLANNING POLICIES, REGIONAL ENVIRONMENTAL PLANS			
POLICY	ASSESSMENT	YES / NO / N/A	COMPLIES
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP)	Is the proposal for housing for older people or people with disabilities?	Yes	Yes

#### EPA REGULATION CONSIDERATIONS:

Regulation Clause	Applicable	Manageable by conditions
Clause 54 & 109 (Stop the Clock)	N/A	N/A
Clause 92 (Demolition of Structures)	N/A	N/A
Clause 92 (Government Coastal Policy)	N/A	N/A
Clause 93 & 94 (Fire Safety)	N/A	N/A
Clause 94 (Upgrade of Building for Disability Access)	N/A	N/A
Clause 98 (BCA)	N/A	N/A

Referrals	
Strategic Planning	<p><u>Comments:</u> Catholic HealthCare Limited is a registered not-for-profit organisation with the Commonwealth Australian Charities and Not-For-Profits Commission.</p> <p>As such, there is no objection to the amendment to condition 9 in accordance with the Ministerial Direction dated 14 September 2007.</p>

APPLICABLE LEGISLATION/ EPI'S /POLICIES:	
EPA Act 1979	Yes
EPA Regulations 2000	Yes
Local Government Act 1993	Yes
SEPP Infrastructure	Yes
WLEP 2000	Yes
WDCP 2000	Yes

#### **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 (1) (a)(i) – Provisions of any environmental planning instrument – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 4.15 (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument	N/A
Section 4.15 (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan	N/A
Section 4.15 C (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement	N/A
Section 4.15 (1) (a) (iv) - Have you considered all relevant provisions of any Regulations?	Yes
Section 4.15 (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	N/A
Section 4.15 (1) (c) – Is the site suitable for the development?	N/A
Section 4.15 (1) (d) – Have you considered any submissions made in accordance with the EPA Act or EPA Regs?	N/A
Section 4.15 (1) (e) – Is the proposal in the public interest?	Yes

## **SECTION 2 – ISSUES**

### **PUBLIC EXHIBITION**

The subject application was not required to be publically exhibited in accordance with the EPA Regulation 2000 and Development Control Plan as the proposed modifications are minor, relate to modifying non-design consent conditions only, and are of a nature and scale that are of minimal environmental impact.

### SECTION 3 – SITE INSPECTION ANALYSIS



#### SITE AREA

Glenaeon Village is an existing retirement living community located at 207 Forest Way, Belrose (Lot 100 DP1114910) that predominately consists of independent living units. Serviced apartments are also provided, together with community facilities such as a pool, gym and community centre.

The site has an approximate 270m frontage to Forest Way and a bus shelter is located along this frontage that is serviced by a regular public bus service.

The site at 199 Forest Way site is located immediately south of the Glenaeon Village site on the opposite side of Glenaeon Avenue. This site has an approximate area of 1.2 hectares and frontage to Forest Way of 80m. A two storey dwelling house with various outbuildings currently exists on the site. The site has a moderate fall from Forest Way to the rear boundary of the site where an unformed road is located.

The surrounding area in which the subject properties are located is characterised by mixed forms of development. The sites are located north of the residential urban area of Belrose extending to Wyatt Avenue, which includes:

- To the north of the broader Glenaeon site, large residential lots. To the east of the site, predominately bushland as well as large residential lots that form part of Oxford Falls.
- To the south of the site is another aged care development.
- To the west of the site is large nursery and further to the west is the Belrose Waste Management Facility.

#### Site constraints and other considerations

Bushfire Prone?	Yes
Flood Prone?	No
Affected by Acid Sulphate Soils	No



#### Site constraints and other considerations

Located within 40m of any natural watercourse?	Yes
Located within 1km landward of the open coast watermark or within 1km of any bay estuaries, coastal lake, lagoon, island, tidal waterway within the area mapped within the NSW Coastal Policy?	No
Located within 100m of the mean high watermark?	No
Located within an area identified as a Wave Impact Zone?	No
Any items of heritage significance located upon it?	No
Located within the vicinity of any items of heritage significance?	No
Located within an area identified as potential land slip?	No
Is the development Integrated?	Yes
Does the development require concurrence?	Yes
Is the site owned or is the DA made by the "Crown"?	No
Have you reviewed the DP and s88B instrument?	Yes
Does the proposal impact upon any easements / Rights of Way?	No

#### SITE INSPECTION / DESKTOP ASSESSMENT:

A site inspection was not required to be undertaken.

#### SECTION 4 – APPLICATION DETERMINATION

##### Conclusion:

The proposal has been assessed against the relevant matters for consideration under Section 79C and 96(1A) of the EP&A Act 1979. This assessment has taken into consideration the Statement of Environmental Effects, all other documentation supporting the application. The proposal is consistent with the Warringah LEP 2000 and is supported pursuant to Section 96(1A) of the EP&A Act 1979.

#### RECOMMENDATION - APPROVAL

##### That Council as the consent authority:

**APPROVE THE MODIFICATION OF THE DEVELOPMENT CONSENT** subject to the following amended and deleted conditions detailed within the associated notice of determination:

- a) Modify Condition No.9 – Policy Controls to read as follows:  
The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.



The following monetary contributions are applicable:

Northern Beaches Council Contributions Plan 2018		
Contribution based on a total development cost of \$34,745,447		
Contributions	Levy Rate	Payable
Total Section 7.12 Levy	0.95%	\$330,081.75
Section 7.12 Planning and Administration	0.05%	\$ 17,372.72
Total	1%	\$347,454.47

*The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.*

*This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.*

To provide for contributions in accordance with Northern Beaches Council Contributions Plan 2018.

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




Signed

Date: 1 August 2019

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**Catriona Shirley, Planner**

The application is determined under the delegated authority of:



Signed

Date: 1 August 2019

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**Phil Lane, Acting Planning Assessment Manager**