

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2018/0105
<b>Responsible Officer:</b>	Lashta Haidari
<b>Land to be developed (Address):</b>	Lot 2611 DP 752038, 1 / 0 Veterans Parade NARRABEEN NSW 2101
<b>Proposed Development:</b>	Modification of Development Consent DA2008/0802 granted for demolition works and construction of 34 new dwellings in Cutler Village at the RSL War Veterans Village
<b>Zoning:</b>	Warringah LEP2011 - Land zoned SP1 Special Activities Warringah LEP2011 - Land zoned E2 Environmental Conservation
<b>Development Permissible:</b>	Yes - Zone SP1 Special Activities Yes - Zone E2 Environmental Conservation
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	RSL LifeCare Limited
<b>Applicant:</b>	Humel Architects Pty Ltd

<b>Application lodged:</b>	06/03/2018
<b>Integrated Development:</b>	Yes
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - New multi unit
<b>Notified:</b>	14/03/2018 to 30/03/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

### 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 Development Control Plan - E1 Preservation of Trees or Bushland Vegetation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2611 DP 752038 , 1 / 0 Veterans Parade NARRABEEN NSW 2101
<b>Detailed Site Description:</b>	<p>The 'subject site' is commonly known as the 'RSL War Veterans Retirement Village' located on Veterans Parade, Wheeler Heights.</p> <p>The site is approximately 44 hectares in area and occupies land (comprising 6 Lot titles) between Veterans Parade, Lantana Avenue and an unmade portion of South Creek Road. The site contains a range of aged care and war veteran's accommodation for approximately 1200 residents, including; self-care dwellings, assisted care hostels, and nursing homes.</p> <p>The form of accommodation varies from one and two storey detached bungalows to a large nursing home and hostel buildings of up to five storeys in height. The buildings are dispersed amongst landscaped areas, bushland and internal roads.</p> <p>This application relates to a section of land located at the end of Colooli Road, known as Cutler Village, which forms part of the RSL Lifecare Retirement Village at Narrabeen. The area that the proposal pertains to is currently occupied by approximately 120 dwellings, which are located adjacent to the eastern boundary of the site and accessed via the public road known as Colooli Road and internally the Village road known as Cutler Circuit.</p> <p>Surrounding development outside the Village is characterised by residential dwellings to the east and south, bushland within Jamieson Park to the north and northwest and Narrabeen. Lake to the north and west.</p>

Map:



## SITE HISTORY

### Development Application No. DA2008/0802

Development Consent No. DA2008/0802 was approved by Warringah Council on 9 December 2009 for the demolition of existing 34 dwellings and the reconstruction of 34 new dwellings in the Cutler Village precinct of the RSL War Veterans Retirement Village at Veterans Parade, Wheeler Heights.

Since the granting of the original development consent, DA2008/0802 has been subject to two modifications. The first modification (Mod 2015/0294) was approved on 23 March 2016 and involved design amendments to 24 of the replacement dwellings in order to comply with accessibility codes, to improve internal design and configuration, and to meet current expectations of seniors housing amenity.

The second modification (Mod 2017/0045) was approved on 18 May 2017 and involved a minor reconfiguration to the site layout in relation to Unit No. 4.

## PROPOSED DEVELOPMENT IN DETAIL

The proposed modifications seeks approval for the removal of a blackbutt tree (*Eucalyptus pilularis*) located in close proximity to the approved building footprints of Unit Nos. 17 and 22.

An arborist report has been submitted with the application, which recommends the removal of the tree based on the expected impacts of excavation and construction works on the tree's root system and protection zone.

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 C.

## 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 DA2008/0802 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	<b>Yes</b> 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 DA2008/0802.
(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 of a development consent, and	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.
(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 a 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)(iiia) – 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&amp;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&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No Additional information was requested.</p>
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) 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) 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.</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	the See discussion on “Public Exhibition” 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



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 the relevant 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
Landscape Officer	<p>The approved DA has been subject to several modifications of the original consent. It is apparent that additional works have been approved within the Tree Protection Zone of the tree.</p> <p>The Arborist's Report submitted with the application indicates that the works as currently approved will require removal of structural roots and a significant portion of the tree's Tree Protection Zone.</p> <p>The resultant impacts are likely to destabilise the tree and/or result in decline of health.</p> <p>In view of the approval currently in place and the opinion of the Arborist's Report, no objections are raised to removal in this instance subject to conditions as recommended.</p>
NECC (Bushland and Biodiversity)	The Bushland and Biodiversity section has no involvement in relation to the removal of a tree. Refer to Landscape comments in this regards.
NECC (Coast and Catchments)	The proposal is supported without condition as it is not impacted by coastal processes.
NECC (Environment Resilience & Climate Change - Riparian Lands / Creeks)	No objection to the proposed modification with no additional conditions.
NECC (Stormwater & Floodplain Engineering – Flood risk)	The proposed removal of the tree is not considered to increase flood risk.

External Referral Body	Comments
Integrated Development – NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	<p>The application (as modified) was referred to NSW Rural Fire Services as integrated Development in accordance with the section 4.55 of the 'Environmental Planning and Assessment Act 1979.</p> <p>The NSW RFS has issued no objection to the</p>

External Referral Body	Comments
	proposed amendments.

### 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)

Nil

### Warringah Local Environmental 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

### Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
5.5 Development within the coastal zone	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes
Schedule 5 Environmental heritage	Yes

### Warringah Development Control Plan

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	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
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	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
War Veterans Village, Narrabeen	Yes	Yes

### Detailed Assessment

#### **E1 Preservation of Trees or Bushland Vegetation**

The proposed development (as amended ) seeks to remove a blackbutt tree (*Eucalyptus pilularis*) from the site which was intended to remain under the original consent. The tree is located within the close proximity of the approved development and the applicant has indicated that due to the impact of the construction on the tree, the retention of the tree is not possible.

The applicant has submitted an Arborist report, which recommends the removal of the tree based on the expected impacts of excavation and construction works on the tree's root system and protection zone.

Council's Landscape officer has reviewed the application and has concurrence with the recommendation of the Arborist Report. Accordingly, the removal of the tree is supported subject to a condition requiring tree replacement.



## **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.

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. Mod2018/0105 for Modification of Development Consent DA2008/0802 granted for demolition works and construction of 34 new dwellings in Cutler Village at the RSL War Veterans Village on land at Lot 2611 DP 752038,1 / 0 Veterans Parade, NARRABEEN, 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 Plan

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA 10 (Revision D)	25/01/2018	Humel Architect

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Construction Impact & Management Statement	December 2017	Aura Tree Services

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:

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

**B. Add additional condition < 30A - Required Planting> to read as follows:**

Trees shall be planted in accordance with the following schedule:

<b>Minimum No. of Trees Required.</b>	<b>Species</b>	<b>Location</b>
2	Eucalyptuspilularis	Grounds of prc

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim/final Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

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

**Signed**




**Lashta Haidari, Principal Planner**

The application is determined under the delegated authority of:



**Anna Williams, Manager Development Assessments**



















**ATTACHMENT A**

Notification Plan	Title	Date
 2018/159096	Plan - Notification	01/03/2018

**ATTACHMENT B**

Notification Document	Title	Date
 2018/173573	Notification Map	14/03/2018

## ATTACHMENT C

Reference Number	Document	Date
 2018/159102	Report - Arborist	24/01/2018
 2018/159121	Plans - Master Set	24/01/2018
 2018/159099	Report - Statement of Environmental Effects	01/03/2018
 2018/159096	Plan - Notification	01/03/2018
 MOD2018/0105	Lot 1/ Veterans Parade NARRABEEN NSW 2101 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	06/03/2018
 2018/157356	DA Acknowledgement Letter - Humel Architects Pty Ltd	06/03/2018
 2018/159083	Modification Application Form	06/03/2018
 2018/159086	Applicant Details	06/03/2018
 2018/168359	Natural Environment Referral Response - Riparian	12/03/2018
 2018/173490	ARP Notification Map	14/03/2018
 2018/173537	DA Acknowledgement Letter (integrated) - Humel Architects Pty Ltd	14/03/2018
 2018/173573	Notification Map	14/03/2018
 2018/173627	Notification Letter - 19	14/03/2018
 2018/179006	Natural Environment Referral Response - Flood	16/03/2018
 2018/181944	Referral - RFS - Lot 1 Veterans Parade Narrabeen	19/03/2018
 2018/193233	Natural Environment Referral Response - Coastal	23/03/2018
 2018/233878	Referral - RFS - Lot 1 Veterans Parade Narrabeen	13/04/2018
 2018/235847	Landscape Referral Response	13/04/2018