

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0558
Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 1 DP 774980, 1 / 0 Veterans Parade NARRABEEN NSW 2101
Proposed Development:	Modification of Development Consent DA2009/1693 granted for demolition works and construction of 67 self-contained dwellings for older people and people with a disability at the RSL War Veterans Retirement Village
Zoning:	Warringah LEP2011 - Land zoned SP1 Special Activities Warringah LEP2011 - Land zoned E2 Environmental Conservation
Development Permissible:	Yes - Zone SP1 Special Activities Yes - Zone E2 Environmental Conservation
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	RSL LifeCare Limited
Applicant:	Tsa Management Pty Ltd

Application lodged:	18/10/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 774980 , 1 / 0 Veterans Parade NARRABEEN NSW 2101
Detailed Site Description:	<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.</p> <p>The form of accommodation within the village 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>The RSL Village consists of a number of 'precincts'. This application relates to the old Darby and Joan precinct, which is located in the south/east part of the village and fronts Lantana Ave. Vehicle access to the old Darby and Joan precinct is via the internal village road (being First Avenue and Second Avenue) which intersects with Edmondson Drive. Edmondson Drive is one of the main internal roads in the village and intersects with Veterans Parade, which provides the main vehicular access to the village.</p> <p>Pedestrian access to Lantana Avenue by residents of Old Darby and Joan is available via a number of ramps and</p>

stairs.

Surrounding development outside the Village is characterised by residential dwellings to the east (Veterans Parade) and south (Lantana Ave), bushland within Jamieson Park to the north and north-west and Narrabeen Lake to the north and west.

Map:



SITE HISTORY

Original Development Consent

On 18 May 2010, development consent was granted to DA 2009/1693 by the Sydney East Joint Regional Planning Panel (JRPP) for the “demolition of existing buildings and associated structures and construction of 67 self-contained dwellings for older people and people with a disability (Old Darby and Joan precinct of the RSL War Veterans Retirement Village)”.

Development Application DA 2014/0714

On 8 September 2014, a separate DA (DA 2014/0714) was approved by Council over part of the site of DA 2009/1693. This application resulted in the reconfiguration of 20 of the self-contained dwellings approved in DA 2009/1693. To achieve consistency, the conditions of consent for DA 2014/0714 included the requirement (Condition No. 27) that DA 2009/1693 be modified to reflect the changes resulting from the approval of DA 2014/0714.

Modification No. 1 (Council Reference: Mod 2015/0056)

This modification was made in response to the requirements of Condition No. 27 of DA 2014/0714. It amended the description of the development and added an additional plan to clarify the effects on DA 2009/1693 by the approval of DA 2014/0714. Mod 2015/0056 was determined by Warringah Council on 1 July 2015.

PROPOSED DEVELOPMENT IN DETAIL

The Applicant seeks to amend the Development Consent No. DA2009/1693 in the following manner:

- To delete Condition No.7 in the notice of determination relating to Developer Contributions under Section 94A of the Act.

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 DA2009/1693, 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 development, as proposed, has been found to be such that Council is satisfied that the proposed

Section 4.55(1A) - Other Modifications	Comments
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	works are substantially the same as those already approved under DA2009/1693.
(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.	See the discussion on "Notification & Submissions Received" in this report.

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 the 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, Council requested additional information and has therefore considered the number of days taken in this</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>assessment in light of this clause within the Regulations. No Additional information was requested.</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 clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to 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 condition in the original consent.</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) 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 the 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

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was not notified.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning	<p>At the time development consent was issued, a condition was imposed requiring development Section 94E of the Act, issued by the Minister for Planning on 14 September 2007 and still in force follows:</p> <p>2. Pursuant to section 94E of the Act, direct amenities or public services in relation to the Act may be imposed on the class of development granted to a social housing provider as a condition of development applications made by such providers from the commencement of the SEPP.</p> <p>No objection is raised to the proposed modification of consent to delete the condition requiring</p>

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?	

zone objectives of the LEP?	Yes
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Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	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

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
F3 SP1 Special Activities	Yes	Yes
War Veterans Village, Narrabeen	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 Council Contributions Plan 2018

In accordance with Section 96(1A) of the Act, the proposed modification involves the deletion of Condition 7 of DA2009/1693. The applicant provided a letter to the Council on 22 August 2018. The letter prepared by BBC Consulting Planners stipulates that Applicant being RSL LifeCare is a Social Housing in accordance with the section 94E of the EP and Act,

The Direction of Section 94E of the EP & Act provides exemptions to contribution payments for social housing providers. Social housing provider means any of the following:

- (a) the New South Wales Land and Housing Corporation,
- (b) the Department of Housing,
- (c) a community housing organisation registered with the Office of Community Housing of the Department of Housing,
- (d) the Aboriginal Housing Office,
- (e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,

- (f) the Department of Ageing, Disability and Home Care,
- (g) a local government authority that provides affordable housing,
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants. (emphasis added)**

The letter from BBC Consulting Planners states that RSL LifeCare Limited is a Registered Charity / Not-for-profit organisation. This has been confirmed under the ATO and the Australian Government 'Australian Charities and Not-for-profits Commission'.

RSL LifeCare Limited is a direct provider of housing to seniors. In this regard, it is an organisation that meets the relevant definition of a 'social housing provider' under the provisions of the Seniors Housing SEPP. Accordingly, the Council does not have the authority to require a contribution from social housing providers.

Council's Strategic section has provided comments and has confirmed that RSL LifeCare fits in with the definition of social housing provider and is therefore exempt by the Ministerial Direction from Section 94A Contributions.

Accordingly, the deletion of Condition 7 from Development Consent No DA2009/1693 is supported.

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. Mod2018/0558 for Modification of Development Consent DA2009/1693 granted for demolition works and construction of 67 self-contained dwellings for older people and people with a disability at the RSL War Veterans Retirement Village on land at Lot 1 DP 774980,1 / 0 Veterans Parade, NARRABEEN, subject to the conditions printed below:

A. Delete Condition No.7- Warringah Section 94A Development Contribution Plan

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

Signed



Lashta Haidari, Principal Planner

The application is determined on 16/11/2018, under the delegated authority of:



Steven Findlay, Manager Development Assessments