

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2020/0557
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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 DA2020/0180 for Alterations and additions to the existing retirement village
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lendlease Retirement Living Holding Pty Ltd
Applicant:	Lendlease Retirement Living Holding Pty Ltd

Application Lodged:	16/11/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	24/11/2020 to 08/12/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed modifications pertain to unit 276 only, there are no proposed amendments to unit 260. The amendments are as follows:-

- Relocate the main bathroom to the other side of bedroom 2 so it has its own access;
- Swap the location of the laundry and dining room with each other; and
- New location of front entry door

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

"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.

MOD2019/0642 - Modification of Development Consent DA2008/0015 granted for Internal external alterations refurbishment of the central community building.

The Section 4.55(1A) application sought to modify Conditions 1 and 32 of DA2008/0015 as follows:-

"Lower Ground Floor Changes:

- Demolition of existing structures, comprising:
 - Joinery cupboards and sink in multifunction room;
 - Select walls and doors in multifunction 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."

This application was approved 13 February 2020.

DA2020/0042 - Alterations and additions to an existing Retirement Village

- Replacement of the glazed roof cladding with metal roof cladding.
- Construction of a new ceiling to the area where the roof is being replaced.

This application was approved 30 April 2020.

DA2020/0180 - Alterations and additions to an existing Retirement Village

- Carry out internal works to consolidate four (4) existing Serviced Apartments into two (2) Independent Living Apartments.
- The proposed works will be carried out to existing Serviced Apartments 260/ 261 and 276/ 277.

This application was approved 30 April 2020.

DA2020/1513 - Alterations and additions to two serviced apartments to consolidate into one serviced apartment

- Carry out internal works to consolidate two (2) existing Serviced Apartments into one (1) Independent Living Apartment.
- The proposed works will be carried out to existing Serviced Apartments 258/259.

This application is still under assessment.

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 DA2020/0180, 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

Section 4.55(1A) - Other Modifications	Comments
regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> Minor internal modifications within an existing building.
(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	<p>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 DA2020/0180 for the following reasons:</p> <ul style="list-style-type: none"> Minor internal modifications to the approved alterations and additions to within an existing building.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(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</p>	<p>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.</p>
(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	See discussion on “Environmental Planning Instruments” in this

Section 4.15 'Matters for Consideration'	Comments
of any environmental planning instrument	report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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&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.</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</p>

Section 4.15 'Matters for Consideration'	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 24/11/2020 to 08/12/2020 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

No referrals were sent in relation to this application

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

Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.

SEPP (Housing for Seniors or People with a Disability) 2004

The subject application has been lodged under the provisions of WLEP 2011 not the former SEPP 5 or the current gazetted SEPP SL.

SEPP SL applies to all land within the State of NSW. As such, SEPP SL is relevant to the assessment of this Development Application. However, any clauses in SEPP SL which are prefaced for their operation with the words 'development application made pursuant to this chapter' would not be relevant to the application as per the NSW Land and Environment Court decision of Talbot J on 31 May 2004, in *Mete v Warringah Council* (2004 NSWLEC 273).

In accordance with Section 4.15 of the EPA Act 1979, the assessment of this application has taken into consideration the relevant provisions of SEPP SL as per as per the above noted NSW LEC decision. An assessment is provided with regard to the relevant provisions of SEPP SL, outlined as follows:

Chapter 1 – Preliminary

The proposed development is considered to be consistent with the aims of the policy, in that the proposed development will continue to provide for the supply and diversity of residences to meet the needs of seniors or people with a disability, the development will make efficient use of existing infrastructure and services available to the site and in the locality, and the proposed development is considered to be of satisfactory design.

The proposed development is considered to be consistent with the definitions contained in this policy, the policy applies to land within Northern Beaches Council (Warringah LEP 2011) and there are no agreements or covenants that require suspension.

Accordingly, on this basis, it is considered that the proposed development is consistent with the provisions outlined under Chapter 1 of SEPP SL.

Chapter 2 – Key concepts

The proposed development is consistent with the key concepts contained within SEPP SL. The proposal seeks to consolidate four (4) existing Serviced apartment into two (2) Independent Living Apartments in the main building which is central located within the village.

Accordingly, on this basis, it is considered that the proposed development is consistent with the provisions outlined under Chapter 2 of SEPP SL.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP SL contains a number of development standards that are applicable only to development applications made pursuant to SEPP SL. However, as the development application was made pursuant to WLEP 2011, the specific provisions prefaced for their operation with the words "made pursuant to this chapter" of Chapter 3 do not apply. There are no relevant provisions of Chapter 3 applicable to this development application.

Accordingly, the provisions outlined under Chapter 3 of the SEPP are not applicable to the assessment of this application.

Chapter 4 – Miscellaneous

The proposed development is not inconsistent with the provisions contained in Chapter 4. The site is not on environmentally sensitive land, is not affected by amendments to other SEPPs, and the special provisions do not apply to this land.

Accordingly, no further assessment of the application is required under Chapter 4 of the SEPP.

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:	7.4m	7.4m	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 5 Miscellaneous provisions	Yes
5.8 Conversion of fire alarms	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	Permitted (State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004)
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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
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

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
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
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	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 affect 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. Mod2020/0557 for Modification of Development Consent DA2020/0180 for Alterations and additions to the existing retirement village 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 03 (Rev B)	19 October 2020	Mostaghim & Associates
DA 05 (Rev B)	19 October 2020	Mostaghim & Associates

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

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

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 14/12/2020, under the delegated authority of:



Catriona Shirley, Acting Development Assessment Manager