

23 July 2020
2200425

The Chief Executive Officer
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

[att: Ms Lashta Haidari]

Dear Lashta,

SECTION 4.55(1A) MODIFICATION APPLICATION 207 and 199 FOREST WAY, BELROSE (DA2018/1332)

This application has been prepared by Ethos Urban on behalf of Catholic Healthcare Ltd (Catholic Healthcare), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify development consent DA2018/1332 relating to the renewal of a part of the Glenaeon Retirement Village at 207 Forest Way, Belrose and the development of a residential care facility (RCF) at 199 Forest Way, Belrose (the Site).

Specifically, the subject modification seeks to amend condition (11) of the DA2018/1332 to amend the \$150,000 bond to state that it must be paid prior to a construction certificate relating to any construction works (i.e. not demolition and not only works adjacent to Forest Way).

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in 4.55(1A) of the EP&A Act. It should be read in conjunction with the Statement of Environmental Effects prepared by Ethos Urban dated 10 August 2018.

It is noted that in email correspondence of 23.07.2020, Lashta Haidari had sought and received the advice of Geraint Breese, Senior Environment Officer Northern Beaches Council.

The proposal is considered suitable for the following reasons:

- CHL are seeking to make safe the site for the protection of surrounding residents, Council and CHL itself for the following reasons:
 - It is currently an indemnity issue for CHL;
 - It is a vacant dwelling and has the potential for vandalism and truancy;
 - For Bushfire Protection to reduce fuel within Asset Protection Zones;
- The demolition works will not affect Forest Way (which Condition 11 seeks to protect) with all Contractor traffic accessing the site via existing crossovers off Glenaeon Avenue
- CHL is a Not for Profit organisation and are a social housing provider and the Bond is an unreasonable financial cost at this point in the project and may be in place for some years should Lend Lease delay their component of the project.

1.0 Consent to be modified

This application seeks to modify the development consent DA2018/1332 for demolition works and the construction of major additions to Glenaeon Retirement Village (207 Forest Way), including self-contained dwellings and a new residential care facility on a neighbouring lot (199 Forest Way), with associated carparking, landscaping and public road modifications.

This application represents the third modification to the approved development consent.

2.0 Proposed modifications to consent

2.1 Proposed modification

This application seeks approval to amend condition 11 of DA2018/1332 that states:

11. Construction, Excavation and Associated Works Bond (Road and footpath reconstruction works)

A Bond of \$150,000 as security against any damage or failure to complete the construction of 1.5m wide footpath in the Forest Way road reserve and part road reconstruction as required part of this consent.

Reason: Protection of Council's Infrastructure

The proposed modifications as described above necessitate the amendment of Condition 11 as identified below. Words proposed to be inserted are shown in **bold underline**.

11. Construction, Excavation and Associated Works Bond (Road and footpath reconstruction works)

*A Bond of \$150,000 as security against any damage or failure to complete the construction of 1.5m wide footpath in the Forest Way road reserve and part road reconstruction as required part of this consent **and payable at the relevant construction certificate for any construction works adjacent or adjoining Forest Way.***

Reason: Protection of Council's Infrastructure

3.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the development to which the consent as modified as substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)*”.

The development, as proposed to be modified, is substantially the same development as that originally approved as it relates only to the adjustment of development contributions amount payable under the DA consent, with no alterations to the approved plans or the built form of the final development. The proposed changes to the condition do not alter the intent of the condition which seeks to protect the Council property along Forest Way.

4.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. Under section 4.55(3), the consent authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act.

The proposed modification will not result in any additional environmental impacts other than those envisioned and assessed under DA2018/1332. This modification does not propose any changes to the built form, approved use or design of the approved development, and seeks only to amend condition 11 of the DA consent to address the timing and relevancy of the condition.

An assessment of the relevant matters under section 4.15(1) is demonstrated below.

4.1 Environmental Planning Instruments

This application seeks to modify condition 11 of the DA consent with respect to the payment timing of a Bond only. No changes are proposed to the approved built form and use under the original DA (DA2018/1332). On this basis,

no further planning assessment is necessary as no further environmental impact is envisaged from the proposed modification that was not already assessed under the original DA.

4.2 Site suitability

No alteration to the final built form, approved use, or design of the development is proposed, and as such the proposed development, as modified, remains suitable for the Site.

The proposal is considered suitable for the following reasons:

- CHL are seeking to make safe the site for the protection of surrounding residents, Council and CHL itself for the following reasons:
 - It is currently an indemnity issue for CHL;
 - It is a vacant dwelling and has the potential for vandalism and truancy;
 - For Bushfire Protection to reduce fuel within Asset Protection Zones;
- The demolition works will not affect Forest Way (which Condition 11 seeks to protect) with all Contractor traffic accessing the site via existing crossovers off Glenaeon Avenue
- CHL is a Not for Profit organisation and are a social housing provider and the Bond is an unreasonable financial cost at this point in the project and may be in place for some years should Lend Lease delay their component of the project.

4.3 Public interest

The proposed development is in the public interest as:

- It will facilitate the realisation of a residential care facility run by a not-for-profit social housing provider who delivers essential housing to the community, without unreasonably burdening the provider with development contributions consistent with the intent of the Ministerial Direction;
- It introduces aged care services within Belrose and allows for senior residents within the community to age in place; and
- It provides an opportunity for continuum of care, close to family and friends, for the residents of the several retirement living villages in the locality.
- The amended condition is not relevant to the initial stage of works proposed which is clearing the site in preparation for construction.

4.4 Reasons given for granting consent

In accordance with Section 4.55(3) of the Act, the consent authority is required to take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. The SNPP's reasons for granting consent have been summarised below:

- The social benefit of a residential care facility being on the same site as a retirement village with independent living units;
- The panel considered that use was permissible under the Warringah LEP 2000; and
- The panel considered that the proposal is consistent with the desired future character within the B2 Locality.

The proposed modification will not undermine the original reasons for the granting of consent and is consistent with the reasons given that the modification facilitates the realisation of the residential care facility and associated social benefits as anticipated by the SNPP approval.

5.0 Conclusion

This section 4.55(1A) modification seeks to modify Condition 11 of the DA consent (DA2018/1332) to amend the \$150,000 bond to state that it must be paid prior to a construction certificate relating to any construction works (i.e. not demolition and not only works adjacent to Forest Way). Once construction starts on the broader development there is a commitment made by the developer to complete all works relating to the DA.

In accordance with section 4.55(1A) of the EP&A Act, the Minister or their delegate may modify the consent, given that:

- The proposed modification is of minimal environmental impact;
- The consent, as proposed to be modified, is substantially the same development as that originally approved; and
- The development's compliance with the key statutory plans and controls remains consistent as that originally approved.

In light of the merits of the proposed development, and in the absence of any significant environmental impacts, we respectfully recommend this application for development consent.

We trust that this information is sufficient to enable assessment of the proposed modification application. Should you have any queries regarding this matter, please do not hesitate to contact tgoode@ethosurban.com or 9956 6962.

Yours sincerely,



Tom Goode
Director
9956 6962
tgoode@ethosurban.com