



**STATEMENT OF ENVIRONMENTAL EFFECTS
SECTION 96(1A) MODIFICATION
OF DEVELOPMENT CONSENT NO.DA2008/0802
FOR THE DEMOLITION OF EXISTING 34 DWELLINGS
AND THE RE-CONSTRUCTION OF 34 NEW
DWELLINGS**

CUTLER VILLAGE PRECINCT

**RSL ANZAC VILLAGE - "The War Vets"
VETERANS PARADE, NARRABEEN**



**By
BBC Consulting Planners**

Job No. 08-164M
Statement of Environmental Effects section 96
Dec 2015



Table of Contents

1.	INTRODUCTION	1
1.1	Overview	1
1.2	Purpose of this Report.....	1
2.	THE SITE.....	2
2.1	Location	2
2.2	Land the Subject of this Section 96 Application	2
3.	PROPOSED MODIFICATIONS	3
4.	RELEVANT PROVISIONS OF SECTION 96.....	5
4.1	Section 96(1A) Considerations	5
4.2	Section 96(3) Considerations.....	6
5.	ENVIRONMENTAL EFFECTS	7
5.1	Section 79C(1) – Matters for consideration - general	7
5.1.1	Section 79C1(a)(i) Environmental Planning Instruments.....	7
5.1.2	Section 79C1(a)(ii) Any Proposed Instrument	9
5.1.3	Section 79C1(a)(iii) Any Development Control Plan.....	10
5.1.4	Section 79C1 (a)(iiia) Planning Agreement.....	10
5.1.5	Section 79C1 (a)(iv) Matters prescribed by the regulation	10
5.1.6	Section 79C1 (a)(v) Coastal Zone Management Plan.....	10
5.1.7	Section 79C1(b) Impacts of the Development (Environmental, Social and Economic Impacts).....	10
5.1.8	Suitability of the Site.....	12
5.1.9	Submissions.....	12
5.1.10	Public Interest	12
6.	CONCLUSION.....	13

1. INTRODUCTION

1.1 Overview

This report has been prepared to accompany an application to modify Development Consent No.DA2008/0802 (“**the consent**”) under the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979 (“the EP&A Act”). This is the first modification sought to the development consent.

Development Consent No. DA2008/0802 was approved by Warringah Council on 8 December 2009 for the demolition of existing 34 dwellings and the re-construction of 34 new dwellings in the Cutler Village precinct of the RSL War Veterans Retirement Village at Veterans Parade, Wheeler Heights.

Development has commenced in accordance with this consent. RSL LifeCare Limited have carried out review of the approved plans concurrently with the existing operation of the village and identified design improvements to meet the expectations of residents. The requested modifications to the approved development involve minor changes to 24 approved dwellings.

The design amendments are of a minor nature in the context of the approved development and will result in a development which continues to provide a high standard of accommodation for seniors.

It is considered that the modifications are changes of ‘minimal environmental impact’ of the modified proposal compared with the original DA, and the fact that the proposal is ‘substantially the same development’ as the development for which consent was originally granted, the application can be dealt with by way of a Section 96(1A) modification.

1.2 Purpose of this Report

The purpose of this report is to:

- describe the land to which the Section 96 relates;
- describe the proposed development as proposed to be modified;
- define the statutory planning framework within which the Section 96 is to be assessed and determined;
- describe the form of the proposed development; and
- assess the proposed development in light of all the relevant heads of consideration.

2. THE SITE

2.1 Location

The RSL War Veterans Retirement Village at Veterans Parade, Wheeler Heights occupies a site area of some 44 hectares and consists of a number of 'precincts'. Development Consent No.DA2008/0802 relates to the Cutler Village located in the northern part of the site at the western end of Colooli Road. Cutler Village comprises approximately 120 dwellings, which are located adjacent to the northern boundary of the site and accessed via Colooli Road and Cutler Circuit.

2.2 Land the Subject of this Section 96 Application

The land the subject of this Section 96 application consists of Lots 2026 and 2641 in DP 752038. This is the same land as the land to which the consent relates.

3. PROPOSED MODIFICATIONS

The proposed modifications include alterations to the internal layouts of 24 units to comply with current accessibility codes, improve the floor space and layout meet current expectations of resident amenity.

Design

Improvements are made to accessible pathways to all front doors along with improved living spaces and building services improvements, remote control garage doors and an improved aesthetic outlook.

The building materials have been improved (i.e. providing sarking to roofs, better insulation to walls and ceilings. Overall energy efficient building methods and materials will be improved to meet current codes and requirements.

External colour palette remains generally the same.

The proposed design modifications are shown on the set of amended DA drawings, prepared by Humel Architects, which accompanies this application. This includes comparison drawings showing the proposed dwellings over the approved dwellings.

The overall building area (internal areas, balconies and garages) reduces slightly resulting from design efficiencies in internal layout and access.

Dwellings maintain the same orientation and balconies are located

Access and Parking

Garages are retained and provided with improved accessibility. Access to garages remains generally in the same location with the exception of some units:

- Units 18 to 20 are to be accessed from Cutler Circuit rather than the unformed extension of Colooli Road resulting in retention of trees within the road reserve;
- Units 31 and 32 are now provided with their own garages rather than a combined garage as approved.
- The location of access to units 21, 33 and 34 has been modified slightly.

There is no change to overall parking spaces, number of units or number of bedrooms.

Landscaping and Tree Removal

Adjustments have been made to the landscape plan to accommodate the design modifications with landscaping remaining consistent with the consent.

No additional trees would be removed as a result of the amendments. Trees with the Colooli Road reserve would be retained.

42% of the site to which the consent relates would be landscaped area.



Accessibility

A Statement of Compliance for Access for People with a Disability has been prepared by Morris Goding Accessibility Consulting to accompany the Section 96 application. The report found that the proposal is able to comply with the relevant provisions of the Seniors Housing SEPP and Australian Standards.

BCA Compliance

Blackett Maguire and Goldsmith, BCA consultants, have reviewed the drawings for compliance with the BCA and are satisfied that the project design can satisfy the requirements of the BCA 2015 in the works are designed and constructed in accordance with the requirements of their report.

Proposed Modification of Development Consent and Consent Conditions

Condition No.1 is required to be amended to reflect the amended architectural and landscape plans.

4. RELEVANT PROVISIONS OF SECTION 96

4.1 Section 96(1A) Considerations

Section 96(1A) of the Environmental Planning and Assessment Act, 1979 states as follows:

“(1A) Modifications involving minimal environmental impact

“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) it is satisfied that the development to which the consent as modified relates is 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), and*
- (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 that requires the notification or advertising of applications for modification of a development consent, and*
- (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.*

In relation to 96(1A)(a), Council can be satisfied that the requested modifications is of minimal environmental impact compared with the approved development, as outlined at Section 7, below.

In relation to 96(1A)(b), the development as modified will still be substantially the same development as that originally approved. In this regard it is noted that:

- The use generally remains the same being self-contained dwellings for seniors housing with parking;
- The number of approved dwellings remains the same;
- There is no change to the number of bedrooms or car parking spaces or the location of the buildings on the site.

When viewed in the context of the surrounding urban form (existing and approved) and in the context of the nature of the use and built form, it is considered that the development as modified remains substantially the same development as that originally approved.

In this regard it is considered that the development as modified retains the essential features of the approved development and is not different to any material extent. The modifications would result in similar impacts to the development as originally approved and the findings of the Statement of Environmental Effects accompanying the application and the officer's

assessment of the development application would apply equally to the development as modified as to the development as originally approved.

In relation to 96(1A)(c) and (d), Warringah Council may choose to notify the application and consider any submissions.

4.2 Section 96(3) Considerations

Section 96(3) states as follows:

“In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.”

Compared with the approved development, the proposed modification would create similar environmental impacts to those outlined in the Statement of Environmental Effects accompanying the DA to which this application relates and those considered in Council's assessment report. Provided in Section 5 is a brief assessment of the proposed modification pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act 1979.

5. ENVIRONMENTAL EFFECTS

5.1 Section 79C(1) – Matters for consideration - general

The relevant matters listed under Section 79C(1) of the Environmental Planning and Assessment Act 1979, are addressed below.

5.1.1 Section 79C1(a)(i) Environmental Planning Instruments

The original consent was found to be highly consistent with all relevant planning controls, including State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, Warringah Local Environmental Plan 2011 and Warringah Development Control Plan

The development as modified will be equally consistent with the relevant planning controls, a brief assessment against the relevant planning controls is provided below.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The subject site is zoned “SP1 Seniors Housing Health Services Facility” under the Warringah LEP 2011. Seniors housing is permissible with consent under this zoning. Seniors housing is defined to include self-contained dwellings which means a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

An assessment of the proposed development against the major requirements of Chapter 3 of the Seniors Housing SEPP is not required because the development is permissible under the provisions of the LEP. However, the modifications have been designed in order to be consistent with the intent of the SEPP.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Assessment of the dwellings has been undertaken and is provided with the application.

Warringah Local Environmental Plan 2011

The approved development was subject to the provisions of Warringah LEP 2000. Warringah LEP 2000 was repealed by Warringah LEP 2011 in December 2011.

Under the provisions of Warringah LEP 2011 the site is partly zoned “SP1 Seniors Housing Health Services Facility” and partly zoned “E2 Environmental Conservation”. The units to be modified by this application are located within the SP1 zone.

The land use table for the SP1 zone is as follows:-

“Objectives of zone

- *To provide for special land uses that are not provided for in other zones.*

- *To provide for sites with special natural characteristics that are not provided for in other zones.*
- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.*

2 Permitted without consent

Nil

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Environmental protection works

4 Prohibited

Any development not specified in item 2 or 3"

The purpose shown on the Land Zoning Map", as referred to in Item 3 above is "Seniors Housing Health Services Facility". "Seniors Housing" is defined in the LEP to mean:-

"a building or place that is:

- (a) a residential care facility, or*
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),*

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or*
 - (f) people who live in the same household with seniors or people who have a disability, or*
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,*
- but does not include a hospital."*

And, "Health Services Facility" is defined to mean:-

"a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) a medical centre,*
- (b) community health service facilities,*
- (c) health consulting rooms,*
- (d) patient transport facilities, including helipads and ambulance facilities,*

(e) hospital.”

The proposed development continues to constitute a group of self-contained dwellings and is therefore permissible with consent under the provisions of LEP 2011.

Heritage Conservation

Under the provisions of the WLEP 2011 the RSL Village site contains 3 items of local heritage significance being:-

- H130 – ANZAC War Memorial;
- H131 – Legacy Park;
- H132 – Ruins of Wheeler Homestead War Veterans Home.

The land to which the consent relates includes item H131 – Legacy Park. Legacy Park (Anzac House) is located to the south of Cutler Village, north of the village centre.

It is a mottled cream face brick building, two storeys high, with a gabled terra cotta tiled roof. A long wing containing common room/lounge and rooftop sundeck projects to the north and has a wide encircling verandah. A clock tower extends up over the main entry.

The impacts of the proposed modifications are no different to the consent. The findings of Council's heritage officer in relation to the development as modified remain the same. The modifications would have no unreasonable impact on the heritage significance of the site or the building.

Development on or near Sloping Land

Under the provisions of the WLEP 2011, the portion of the site the subject of this Section 96 application contains the following land slip risk class:-

- Area A – slope $<5^{\circ}$

Clause 6.4 of the WLEP 2011 requires Council to be satisfied that the application has been assessed for the risk associated with landslides has been assessed. Whilst the extent of excavation proposed by this application for the carpark is greater than approved, the depth of excavation is consistent with that approved by the development consent.

A landslip assessment of the proposed development has been prepared by Crozier Geotechnical Consultants to accompany this application. The assessment follows the guidelines as set out in Section E10-Landslip Risk of Warringah Councils 2011 LEP Planning Rules. The assessment considers that a detailed landslip risk assessment is not required for this development.

5.1.2 Section 79C1(a)(ii) Any Proposed Instrument

There are no draft environmental planning instruments relevant to the proposed development.

5.1.3 Section 79C1(a)(iii) Any Development Control Plan

The development as proposed to be modified is generally consistent with Warringah DCP 2011 to the extent relevant.

5.1.4 Section 79C1 (a)(iia) Planning Agreement

No planning agreement is proposed by the applicant.

5.1.5 Section 79C1 (a)(iv) Matters prescribed by the regulation

The *Environmental Planning and Assessment Regulation 2000*, prescribes in Clause 92(1) that for the purposes of Section 79C(1)(a)(iv) of the Act, the matters to be taken into consideration by a consent authority in determining a development application include land to which the Government Coastal Policy applies, the provisions of Australian Standard AS 2601-1991 for demolition and matters relevant to a subdivision order. In this regard it is noted that:

- The development adjoins but is not within the Greater Metropolitan Region coastal zone;
- Demolition would be carried out in accordance with the provisions of AS2601.is not proposed as part of this modification; and
- The site is not subject to a subdivision order.

Clause 93 of the Regulation includes provisions for fire safety and other considerations and applies to a development application for a change of building use for an existing building. It is not relevant to the subject application. Similarly the provisions of Clause 94 and 94A do not apply.

5.1.6 Section 79C1 (a)(v) Coastal Zone Management Plan

The site is not affected by a Coastal Zone Management Plan.

5.1.7 Section 79C1(b) Impacts of the Development (Environmental, Social and Economic Impacts)

Overall

The assessment of the development which is subject of the consent concluded that environmental impacts would be minimal and acceptable and that the proposed development incorporated appropriate measures to mitigate impacts on the built and natural environment.

The modifications the subject of this application do not alter these findings. The modifications are not significant in relation to the environmental, social and economic impacts.

Impacts on the natural environment

Protection of the natural environment will be achieved through effective management of construction (and particularly prevention of erosion and sedimentation) in accordance with the conditions of consent.

There would be no additional impact on the adjoining bushland as a result of the modifications having regard to the minor nature of the changes associated with the approved dwellings.

Impacts on the built environment

Character, siting, bulk and scale

The character, siting, bulk and scale of the development as proposed to be modified would be the same as the original development. There is not overall increase in building area with an overall reduction in the area of building (internal, balconies and garages). The proposed development remains compatible with the character of the area.

Overshadowing and solar access

The proposed modification will not result in any additional adverse overshadowing impacts on adjoining or adjacent properties. Dwellings have been designed with living rooms and balconies oriented mostly to the north with some east and west facing units. The orientation of buildings has not changed to any significant extent.

The relocation of access to units 18 to 20 from the unformed section of Colooli Road to Cutler Circuit results in south facing living rooms for these units which represents only 8% of the number of units in the development. This is considered acceptable given the improvement in accessibility from having the units accessed from Cutler Circuit and the retention of landscaped area in the road reserve.

Traffic and Car parking Impacts

Traffic and parking impacts of the modifications are minimal. No change the number of parking spaces is proposed and no increase in the intensity of development or traffic generation.

Access to garages and units is improved.

Stormwater

No change to the approved stormwater management system is proposed or required by the modification. The redesigned units would continue to drain to the existing system.

Bushfire

Building Code & Bushfire Hazard Solutions Pty Limited has undertaken a bushfire assessment of the modifications and accompanies the application. The consent is subject to a number of conditions reflecting the general terms of approval of the NSW Rural Fire Service. In this regard the subject section 96 application seeks to demonstrate a better bushfire safety outcome than the original approval. The modifications were discussed on site with an officer of the RFS.

The bushfire assessment concludes:

Given that the property is deemed bushfire prone under Warringah Council's Bushfire Prone Land Map any development would need to meet the requirements of Planning for Bush Fire Protection – 2006 and of the construction requirements of Australian Standard 3959 – 2009. The determination of any bushfire hazard must be made on a

site-specific basis that includes an assessment of the local bushland area and its possible impact to the subject property.

The development proposal relates to the alterations and additions of an approved aged care development within an existing aged care establishment known as Cutler Village, RSL ANZAC Village, located at 90 Veterans Parade, Narrabeen NSW. The vegetation identified as being the hazard is to the north, south and west within Jamieson Park.

The alterations and additions to the approved design do not result in an increase in occupant capacity and purely provide increased functionality of the units to cater for current market interests.

The existing approval (DA2008/0802) requires construction to comply with Level 3 under AS3959 – 1999 (a superseded and inferior standard) with no exposed timbers.

The current application proposes to construct all new buildings to BAL 40 under AS3959 – 2009, a much more comprehensive construction standard than the existing approval.

The proposed dwellings are no closer to the hazard than the existing development within the subject site and the improvements to the level of construction provides a significantly better outcome than if the development was to proceed under the original approval. This in itself suggests the application should be approved under the infill provisions of PBP 2006.

In accordance with the bushfire safety measures contained in this report, and consideration of the site specific bushfire risk assessment it is our opinion that when combined, they will provide a reasonable and satisfactory level of bushfire protection to the subject development and also satisfy both the Rural Fire Service's concerns and those of Council in this area.

In accordance with the requirements of the EP&A Act, the S96 application would be referred to the RFS.

Social and economic impacts

The modifications would have a positive social impact in providing seniors housing more suited to expressed needs with improved accessibility.

5.1.8 Suitability of the Site

The proposed modifications will not alter the suitability of the site for the development proposed.

5.1.9 Submissions

Any relevant representations will need to be considered by the consent authority.

5.1.10 Public Interest

The proposed modifications are not inconsistent with the public interest.

6. CONCLUSION

The development as proposed to be modified will have minimal environmental impacts compared with the previous approved development. The development to which the application relates is substantially the same development as the development for which consent was originally granted.

It is noted that:

- The proposed modifications are permissible with consent in the zone, and are consistent with the provisions of the relevant planning controls.
- The proposed modifications will have no adverse impacts on the built environment.
- The proposed modifications will have no adverse impacts on the natural environment.
- The proposed modifications will have no adverse impacts on access or traffic.
- No adjoining properties will be adversely affected by the proposed modifications.

Having regard to the above, the modifications are considered to be in the public interest and will not give rise to any adverse social or economic impacts.

The modifications for which consent is now sought do not alter the original findings made in relation to the original DA regarding the reasonableness and appropriateness of the proposal when considered in the light of the matters listed in Section 79C(1) of the Environmental Planning and Assessment Act, 1979.