



Warringah Council

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Assessment Officer: Lashta Haidari
Address / Property Description: Lot 1, DP 774980, Lot 1, Lot 1, DP 803645, Lot 2026, DP 752038, Lot 2611, DP 752038, Lot 573, DP 752038, and Lot 2641, DP 752038, Lot 1/ Veterans Parade, Wheeler Heights.

Proposal: S96 (1A) modification to modify Development Consent No. DA2008/1078 issued for alterations and additions to an existing Hostel at the RSL War Veterans Village.
Modification Application No: Mod2009/0119
Development Consent to be modified No: DA2008/1078
Plans Reference: Drawing No: DA03 (issue A), DA06 (issue B) prepared by Young + Metcalf Architects.
Applicant: Young & Metcalf Architects.
Owner: RSL Lifecare Limited and Rely Lifecare Limited
Application Lodged: 11 May 2009
Amended Plans: There are no amended plans for this application.

Locality: B6 War Veterans
Category: Category 1 (Housing for older people or people with a disability)
Clause 20 Variations: No Variations sought
Land and Environment Court Action: NO
Referred to IHAP: NO
Referred to ADP: NO

SUMMARY

Submissions: No submissions were received
Submission Issues: N/A
Assessment Issues: No Issues
Recommendation: Section 96(1A) Approval
Attachments: None



Warringah Council

LOCALITY PLAN (not to scale)



Subject Site:

Lot 1, DP 774980, Lot 1, DP 803645, Lot 2026, DP 752038, Lot 2611, DP 752038, Lot 573, DP 752038, Lot 2641, DP 752038, Lot 1 Veterans Parade, Wheeler Heights.

Notified Residences:

The subject application was notified in accordance with the EPA Regulation 2000 and Warringah DCP. As a result the application was notified by letter to 26 adjoining and nearby property owners and occupiers between the 21/05/2009 and 5/06/2009. No submissions were received as result.



SITE DESCRIPTION

The 'subject site' is commonly known as the 'RSL War Veterans Retirement Village' located on Veterans Parade, Wheeler Heights.

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.

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.

This application relates to the North West Hostel (which has been recently renamed "Milne Bay") and is located to the south of Lakeshore Drive. The hostel is located in the south western part of the village and is accessed Via Lakeshore Drive.

The existing hostel is a predominantly single storey building (with some sections elevated above ground level). The building consists of a number of interconnected wings. The proposal relates to the addition of lounges within the northern and southern recessed areas of the building.

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.

APPROVED DEVELOPMENT

Development Application No.2008/1078 for additions and alterations to the existing North West Hostel, to create two new lounges was approved by Council on 13 January 2009.

PREVIOUS APPROVED MODIFICATIONS

Development Consent No.2008/1078 has not been previously modified.

PROPOSED MODIFICATIONS

The Section 96(1A) application to modify Development Consent No.2007/1078 seeks to amend the approved plans by enclosing the approved terrace to the west of the north lounge to utilise as additional internal (i.e.21m²) lounge area. The entry door to the main lounge is proposed to be relocated to the northern end of the eastern wall and a small tea making bench is proposed to be located on the north wall.

LAND AND ENVIRONMENT COURT

Council has not been advised of any court action in relation to this matter.

AMENDMENTS TO THE PLAN

There are no amended plans for this application.



STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- c) SEPP No. 55 – Remediation of Land
- d) SEPP (Housing for Seniors or People with a Disability) 2004
- e) SEPP (Infrastructure) 2007
- f) Warringah Local Environment Plan 2000
- g) Warringah Development Control Plan
- h) 94A Development Contribution Plan

REFERRALS

No referral was required as part of this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application was publicly notified and advertised in accordance with the Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan to 26 adjoining owners and occupiers from 21 May 2009 and ended on 5 June 2009.

No submissions were received as result of the notification.

SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

The subject application to modify Development Consent 2008/1078 issued on 13 January 2009 has been lodged pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979.

Section 96(1A) of the Environmental Planning and Assessment Act 1979 (the Act) stipulates:

'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.*

The proposed development is considered to be of a minimal environmental impact for the following reasons;

- No changes to the proposed uses are sought
- Only minor external changes are proposed to the building on the western facade. The external changes proposed do not alter the proposal's compliance with any relevant planning controls nor do they result in any adverse impacts on the adjoining properties.
- The increase in the floor space will be confined within the approved building footprint.

The development as modified is considered to be substantially the same development as the development for which consent was originally granted. The proposed modification does not alter the approved use, nor do they significantly alter the physical structure to an extent that would render the development inconsistent with the approval.

The amenity to neighbouring properties will not be adversely affected by the proposed modification (with regard to solar access, acoustic disturbance or visual privacy). The visual appearance of the development, as seen from the neighbouring and the public domain will not be significantly altered as part of this modification.

The original Development Application (DA2008/1078) identified the development as integrated development as the subject site is located within Bushfire Prone Land (as defined by Section 91 of the EPA Act 1979) and required a Bushfire Safety Authority under Section 100B of the Rural Fires Act 1997. The subject modification application proposes to enclose a terrace within the same footprint as approved development. The proposed modification will not alter and is required with all of the general terms of approval conditions provided previously for the original application. As such, the modification application is not required to be referred to the NSW RFS.

As discussed in the 'Notification and Submissions' section of this report, the application has been notified in accordance with the EP&A Regulation and Warringah Development Control Plan. No submissions have been received in response to the notification of the current application.

Accordingly, the proposed modifications may be assessed pursuant to Section 96(1A) of the Act.

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 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.

The following table assesses the proposed modifications against the relevant matters under Section 79C of the Environmental Planning and Assessment Act 1979.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	The proposed modifications do not alter the proposal's compliance with any State Environmental Planning



Warringah Council

Section 79C 'Matters for Consideration'	Comments
	Policy. See discussion on relevant SEPPs and "WLEP 2000" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	No draft environmental planning instruments are relevant to the proposed modification.
Section 79C (1) (a)(iii) – Provisions of any development control plan	The application was notified in accordance with Warringah Development Control Plan.
Section 79C (1) (a)(iiia) –Planning Agreement or any Draft Planning Agreement under Section 93F	None applicable to the proposal
Section 79C (1) (a)(iv) – Provisions of the regulations	All relevant provisions of the EP&A Regulation 2000 have been taken into consideration during the assessment of the development application and this modification application.
Section 79C (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	i) The proposed modifications will not result in any adverse impacts on the natural environment. The proposed modifications will not result in any unreasonable impacts on the built environment. (ii) The proposed modifications will not have a detrimental social impact in the locality but rather allow for the continued use of the site as a residential care facility which provides an important community service. (iii) The proposed modifications will not have a detrimental economic impact on the locality considering the continued use of the site as a residential care facility.
Section 79C (1) (c) – The suitability of the site for the development	The proposed modifications do not alter the site's suitability for the proposed use.
Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs	In regards to public submissions refer to the discussion on "Notification & Submissions" within this report.
Section 79C (1) (e) – The public interest	The proposed modifications are consistent with the planning controls applying to the site under WLEP 2000 and do not result in any unreasonable impacts on the adjoining properties. As such, the modifications are considered to be in the public interest.

State Environmental Planning Policies

Further consideration is required for the following State policies:

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

Clause 7(1) (a) of SEPP 55 requires the consent authority to consider whether land is contaminated.

At the time of assessment of DA208/1078, Council records did not indicate that the site was potentially contaminated. Similarly, there is no evidence at the time of this assessment to suggest the site is contaminated.

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

The SEPP Seniors Living, the Seniors Living Policy does not apply to this proposal as this application is made under the provision of Warringah LEP 2000.

SEPP (Infrastructure) 2007

Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);
- Immediately adjacent to an electricity substation; or
- Within 5m of an exposed overhead electricity power line.

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and as such the development application is not required to be referred to the electricity supply authority. In this regard, the subject application is considered to satisfy the provision of Clause 45 SEPP Infrastructure.

STATUTORY CONTROLS

Warringah Local Environmental Plan 2000

Desired Future Character

The subject site is located in the B6 War Veterans Locality under Warringah Local Environmental Plan 2000. The Desired Future Character Statement for this locality is as follows:

LOCALITY B6

The War Veterans locality will continue to provide housing for older people and associated uses to meet the needs of residents within the locality.

Future development will respond to the prominence of this locality by keeping buildings below the predominant tree-line when viewed from the Narrabeen Lake viewing catchment. Articulated building forms, landscaping and colours will combine to break up apparent building mass and reduce the impact of new development on long distance views of the locality. The redevelopment of existing buildings so that their visual presences in the Narrabeen Lake viewing catchment are reduced will be strongly encouraged.

The scale and height of development along Veteran Parade and Lantana Avenue will be consistent with the adjacent established residential development and building are to address the street.

New buildings will be grouped in areas that will minimise disturbance of vegetation and landforms. Bushfire hazard reduction measure and stormwater detention required as a result of development will be confined to the locality.

The proposed development is defined as 'housing for older people or people with a disability' under the provisions of the WLEP 2000 Dictionary. 'Housing for older people or people with a disability' is identified as Category 1 development within the B6 War Veterans Locality.



Warringah Council

The proposed modifications do not alter the development's consistency with the desired future character statement.

Built Form Controls for Locality B6 War Veterans

The proposed amendments do not alter the proposal's compliance with the built form controls from the original scheme.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following is an assessment of the relevant General Principles of Development Control in Warringah Local Environmental Plan 2000 (WLEP 2000).

General Principal	Applies	Comments	Complies
CL38 Glare & reflection	NO	No changes are proposed to the external colours and finishes.	N/A
CL39 Local retail centres	NO	Not applicable.	N/A
CL40 Housing for Older People and People with Disabilities	YES	The modified scheme retains compliance with Clause 40 as per the approved scheme.	YES
CL41 Brothels	NO	Not applicable.	N/A
CL42 Construction Sites	YES	Construction management conditions have been included on the original consent.	YES
CL43 Noise	YES	The proposed modifications will not significantly alter the acoustic impact of the development on the adjoining properties.	YES
CL44 Pollutants	NO	Not applicable.	N/A
CL45 Hazardous Uses	NO	Not applicable.	N/A
CL46 Radiation Emission Levels	NO	Not applicable.	N/A
CL47 Flood Affected Land	NO	The site is not identified as flood affected.	N/A
CL48 Potentially Contaminated Land	NO	Not applicable.	N/A
CL49 Remediation of Contaminated Land	NO	Not applicable.	N/A
CL49a Acid Sulfate Soils	NO	Not applicable.	N/A
CL50 Safety & Security	YES	The proposed modifications will not reduce casual surveillance of the public domain nor will they provide greater opportunity for concealment. It is considered that the proposed modifications are satisfactory in this regard.	YES
CL51 Front Fences and Walls	NO	Not applicable	N/A
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	Not applicable.	N/A
CL53 Signs	NO	Not applicable.	N/A
CL54 Provision and Location of Utility Services	NO	No change proposed.	N/A
CL55 Site Consolidation in 'Medium Density Areas'	NO	Not applicable.	N/A
CL56 Retaining Unique Environmental Features	NO	No change proposed.	N/A



Warringah Council

General Principal	Applies	Comments	Complies
on Site			
CL57 Development on Sloping Land	NO	Not applicable.	N/A
CL58 Protection of Existing Flora	NO	The proposed modifications will not adversely impact on any existing flora.	N/A
CL59 Koala Habitat Protection	NO	Not applicable.	N/A
CL60 Watercourses & Aquatic Habitats	NO	Not applicable.	N/A
CL61 Views	YES	The proposed modification is considered to be satisfactory in relation Clause 61.	YES
CL62 Access to sunlight	YES	Clause 62 states that development is not to unreasonably reduce sunlight to surrounding properties. Sunlight to at least 50% of the principal private open space is not to be reduced to less than 2 hours between 9am and 3pm on June 21 and where overshadowing by existing structures and fences is greater than this, sunlight is not to be further reduced by the development by more than 20%. The solar access to the west will not be altered as result of proposed modification. The approved roof height remains unchanged and therefore there is no additional increase shadows to the adjoining properties.	YES
CL63 Landscaped Open Space	YES	The proposed modification will not reduce the Landscape open space as the proposed modification is located within the existing footprint of the approved building. The proposed modification satisfies the requirement of Clause 63.	YES
CL64 Private open space	YES	The enclosure of the terrace will not significantly alter the private open space available to the existing hostel. The hostel has significant area at the ground level that can be used as private open space which exceeds the requirement of this Clause. The proposed modification will not alter the existing private open spaces of the existing hostel and therefore the proposal is satisfactory in addressing the requirement of this Clause.	YES
CL65 Privacy	YES	The privacy impacts of the proposed development resulting from the terrace on the western facade have been addressed in the original assessment. The spatial separation provided along with the existing landscaping will ensure privacy on the adjoining properties to the north is maintained. Accordingly, the proposed modification is satisfactory in addressing the requirement of this Clause.	YES
CL66 Building Bulk	YES	The existing hostel building is single storey and surrounded by bushland. The proposed modification to enclose the existing terrace will be located within existing recessed spaces of the existing building and therefore the built form will be consistent to that of surrounding development and that on site in with regard to bulk and scale. The proposed modification is considered to be satisfactory in addressing the requirement of this Clause.	YES
CL67 Roofs	NO	No changes are proposed to the roof form.	N/A
CL68 Conservation of	YES	The modifications do not affect the approved scheme's	YES

General Principal	Applies	Comments	Complies
Energy and Water		compliance.	
CL69 Accessibility – Public and Semi-Public Buildings	NO	The modification proposed does not affect the approved scheme's compliance.	N/A
CL70 Site facilities	NO	The proposed modification relating to the site facilities has been assessed as part of the original application. These facilities will not be altered as part of this application.	N/A
CL71 Parking facilities (visual impact)	NO	No change proposed. The proposed modifications will not increase the visual impact of the parking facilities.	N/A
CL72 Traffic access & safety	NO	No change proposed.	N/A
CL73 On-site Loading and Unloading	NO	Not applicable.	N/A
CL74 Provision of Carparking	NO	No changes are proposed to the number of carapaces	N/A
CL75 Design of Carparking Areas	NO	No changes are proposed to the layout of the carparking area.	N/A
CL76 Management of Stormwater	NO	No change proposed.	N/A
CL77 Landfill	NO	Not applicable.	N/A
CL78 Erosion & Sedimentation	YES	Appropriate conditions were included on the original consent.	YES
CL79 Heritage Control	NO	The War Vets is identified as having items of heritage significance located on it. The items include 'ANZAC War Memorial', Veterans Parade, 'Darby & Joan Cottages' (units 11 and 12), Veterans Parade, 'Legacy Park', Veterans Parade, Collaroy, and the RSL House. The proposed modification is not considered to have any adverse impact upon the existing items of heritage significance for the following reasons: • The development will be located a considerable distance from the items; • The fact the development is considered appropriate for the site and the locality by way of design, bulk scale and the intended use; and • The significance of the items will not be altered. Accordingly, the proposed modification is not considered to impact upon the sites items of heritage significance and therefore no conditions or requirements are to be placed on the development with regard to heritage matters.	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	Not applicable.	N/A
CL81 Notice to Heritage Council	NO	The subject site is not located within the vicinity of any known or potential Aboriginal sites.	N/A
CL82 Development in the Vicinity of Heritage Items	YES	Refer to discussion under Clause 79 above.	YES
CL83 Development of Known or Potential Archaeological Sites	NO	The subject site is not located within the vicinity of any known or potential archaeological sites.	N/A



SCHEDULES

Schedule 8 - Site analysis

Adequate site analysis documentation has been provided with this application.

Schedule 17 - Carparking Provision

The proposed modifications do not result in any changes to compliance with Schedule 17.

POLICY CONTROLS

Warringah Section 94A Development Contributions Plan

The proposed modifications do not alter the Section 94 Contribution that is payable.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft Environmental Planning Instruments which are applicable to this development.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 96(1A) and Section 79C of the Environmental Planning and Assessment Act 1979, Warringah Local Environmental Plan 2000 and the relevant codes and policies of Council.

The modification proposed under this application seeks to increase the internal floor space by 21m² by enclosing the western terrace of the northern lounge. The new section of wall is an infill and alignment with the external wall along the western elevation. The proposed amendments do not alter the proposal's compliance with the built form controls from the original scheme.

The proposed amendments is considered to satisfy the requirements of the relevant WLEP 2000 DFC statement with respect to the character, sitting, bulk and scale of the development and the proposed additions is compatible with the character of the existing hostel.

It is considered that the proposed modification satisfies the relevant controls and that all processes have been followed. Accordingly, the proposal is recommended for approval.

RECOMMENDATION

That the Section 96(1A) Application No. 2009/00119 to modify Development Consent No. DA2008/1078 granted for alterations and additions to an existing hostel at the RSL war veterans village, at Lot 1, DP 774980, Lot 1, DP803645, Lot 2026, DP 752038, Lot 2611, DP 752038, Lot 573, DP 752038, and Lot 2641, DP 752038, Veterans Parade, Wheeler Heights be approved and the consent be modified in the following manner;



A. Modify Condition No. 1 - Approved Plans to read as follows:

Approved Plans and Supporting Documentation

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing Number	Dated	Prepared By
DA01 (Issue A)	July 2008	Young + Metcalf Architects
DA02 (Issue A)	July 2008	Young + Metcalf Architects
DA03 (Issue A)	July 2008	Young + Metcalf Architects
DA04 (Issue A)	July 2008	Young + Metcalf Architects
DA05 (Issue A)	July 2008	Young + Metcalf Architects
DA06 (Issue A)	July 2008	Young + Metcalf Architects
DA07 (Issue A)	July 2008	Young + Metcalf Architects
DA08 (Issue A)	July 2008	Young + Metcalf Architects
DA09 (Issue A)	July 2008	Young + Metcalf Architects
DA10 (Issue A)	July 2008	Young + Metcalf Architects

As modified by the plans listed below that were submitted with the Section 96 application received by Council on 4/11/2008, and endorsed with Council's approval stamp.

Drawing Number	Dated	Prepared By
DA03 (Issue B)	4/05/2009	Young + Metcalf Architects
DA06 (Issue B)	5/05/2009	Young + Metcalf Architects

No building works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

Note: Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

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

Signed

Date

Lashta Haidari – Senior Development Assessment Officer

Signed

Date

Ryan Cole – Team Leader, Development Assessment