

NORTHERN BEACHES COUNCIL

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

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| Application Number: | Mod2020/0508 |
| Responsible Officer: | Lashta Haidari |
| Land to be developed (Address): | Modification of Development Consent DA2018/1332 granted for demolition works, additions to Glenaeon Retirement Village, self-contained dwellings, a new residential care facility, associated car parking, landscaping and public road modifications |
| Category of the Development | Northern Beaches Council |
| Consent Authority | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | John Frederick Lindley Colleen Lindley Catholic Healthcare Limited Lendlease Retirement Living Holding Pty Ltd |
| Applicant: | Lendlease Retirement Living Holding Pty Ltd |

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| Application Lodged: | 12/10/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Seniors Living |
| Notified: | 20/10/2020 to 03/11/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 20 Variation: | Nil |
| Recommendation | Approval |

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification application relates to Development Consent No. 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.

Specifically, the subject modification seeks to amend consent for the removal of one tree relating to the original development application and to allow for the installation of an Ausgrid substation. The modification also includes the removal of a number of Cocos Palms, which are exempt species. species.

As result of the proposed tree removal, the applicant is seeking amendments to the conditions No 39 and 40. Words proposed to be deleted are shown in **bold strike through** and words to be inserted are shown in **bold italics**. For clarity, only those plans and documents subject to change have been included below.

39. Tree protection

- (a) Existing trees which must be retained
- i. All trees not indicated for removal on the approved plans, unless exempt under relevant planning
 - ii. Trees located on adjoining land
 - iii. all road reserve trees and vegetation **with the exception of tree 126 and those noted on the approved plans, Arboricultural Impact Assessment for 207 Forestway Belrose dated 31st July 2018 and the exempt tree species 127, 128, 129, 130, 131, 132, 133 and 134.**

Reason: Condition 39(a) is proposed to be amended to allow for the removal of the Coco Palms (Trees 127-134) and the removal of Tree 126 to allow for Ausgrid works to commence, in accordance with the approved Ausgrid plans that followed the determination of DA2018/1332. It is noted that the Coco Palms are exempt species

40. Project Arborist

1. A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
2. The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the approved Tree Protection Plan and Arboricultural Impact Assessment dated 31 July 2018 prepared by Footprint Green **with the exception of the additional removal of Tree 126** and the Arboricultural Impact Report dated 23 July 2018 prepared by Landscape Matrix and AS4970-2009 Protection of trees on development sites.
3. The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: Condition 40 is proposed to be amended to allow for the removal of Tree 126 in accordance with the approved Ausgrid plans to facilitate the installation of the kiosk.

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;

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- 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

Gleneaon Village is an existing retirement living community located at 207 Forest Way, Belrose (Lot 100 DP1114910) that predominately consists of independent living units. Serviced apartments are also provided, together with community facilities such as a pool, gym and community centre. The site has an approximate 270m frontage to Forest Way and a bus shelter is located along this frontage that is serviced by a regular public bus service.

The site at 199 Forest Way site is located immediately south of the Gleneaon Village site on the opposite side of Gleneaon Avenue. This site has an approximate area of 1.2 hectares and frontage to Forest Way of 80m. A two storey dwelling house with various outbuildings currently exists on the site. The site has a moderate fall from Forest Way to the rear boundary of the site where an unformed road is located.

The location of the site is shown in the aerial image below (199 Forest Way, Belrose (outlined red) and the adjoining Gleneaon village (outlined in blue).



Location Plan

SITE HISTORY

Development consent DA2018/1332 was granted by the Sydney North Planning Panel on 1 May 2019 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 consent has been modified on two (2) previous occasions:

- Section 4.55(1a) Modification Application (Mod2019/0307), which was approved by Council on 1 August 2019, and amended a number of conditions to enable the staging of Construction Certificates and Occupation Certificates for the development.
- Section 4.55(1a) Modification Application (Mod2019/0308), which was also approved by Council on 1 August 2019, and removed the requirement to provide Section 7.12 developer contributions on the grounds that the facility is to be run by a not-for-profit service provider; Catholic Healthcare.

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:

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- 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 DA2018/1332, 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 |
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| 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 as the changes relate to the removal of a tree. |
| (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 | 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 DA2018/1332. |
| (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 modification application did not require notification. |
| (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

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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 |
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| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this 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 | None Applicable. |
| 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>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. 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</p> |

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| Section 4.15 'Matters for Consideration' | Comments |
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| | addressed via a condition in the original consent. |
| 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 LEP 2000 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 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. |

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 20/10/2020 to 03/11/2020 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

| Internal Referral Body | Comments |
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| NECC (Bushland and Biodiversity) | <p>The proposed modification seeks consent for the removal of one tree relating to the original development application to allow for the installation of an Ausgrid substation. In addition to changes to conditions 39 & 40 as proposed, the amendment of the landscape plan to replace the tree to be removed has also been conditioned.</p> <p>Therefore the modification is considered consistent with Clause 56 Retaining distinctive environmental features on sites and Clause 58 Protection of existing flora of WLEP 2000.</p> |

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| Landscape Officer | <p>The modification requires removal of tree 126 - <i>Angophora costata</i> to install an approved Ausgrid substation. The proposal also requires removal of a number of Cocos Palms, which are exempt species.</p> <p>Comments and conditions from Council's Bushland and Biodiversity section are noted, which include condition for replanting of a replacement <i>Angophora costata</i>, which is supported.</p> <p>No objections are raised to the proposed tree removals and amendments to the conditions of consent as indicated in the Statement of Modification, subject replanting as conditioned by Bushland and Biodiversity referral.</p> |
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ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been vacant land for a significant period of time with no substantial prior development having been undertaken. The requirements of SEPP No.55 have been addressed with the original development consent conditions.

Local Environment Plans (LEPs)

Warringah Local Environment Plan 2000 (WLEP 2000)

The subject site is located in the B2 Oxford Falls Valley Locality under Warringah Local Environmental Plan 2000.

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 consistent with the with the DFC statement for the B2 Oxford Falls Valley locality, and there are no changes proposed to the approved built form of the development.

General Principles of Development Control

Clause 12(1)(a) of WLEP 2000 states that prior to granting consent, Council must be satisfied that the proposal is consistent with the relevant general principles of development control contained in Part 4 of WLEP 2000.

The following General Principles of Development Control as contained in Part 4 of WLEP 2000 are applicable to the proposed modification:

Clause 56 - Retaining Unique Environmental Features on Site
Clause 58 - Protection of existing flora

The proposed modification seeks to remove tree no.126 as *Angophora costata* (Sydney Red gum) which identified within Arboricultural Impact Assessment prepared by Footprint Green and dated 31 July 2018 for the original development application, identifies Tree 126.

The applicant states that the reason for removal is associated with the location of Ausgrid substation.

Council's Biodiversity Team and Landscape officer have reviewed the proposed modification and has raised no objection to the proposed modification subject to conditions for replanting of a replacement *Angophora costata*.

Therefore, the proposed modification subject to condition for a *replacement* *Angophora costata* remains consistent with the requirement of Clause 56 and 58.

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 2000; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Section 4.15 and Section 4.55(1A) of the EP&A Act 1979. This assessment has taken into consideration the submitted Statement of Modification all other documentation supporting the application, 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 aims of the WLEP 2000 and B2 Oxford Falls Locality Statement

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2020/0365 for Modification of Development Consent Mod2020/0508 granted for demolition works and construction of major additions to Glenaeon Retirement Village on land at Lot 100 DP 1114910,207 Forest Way, BELROSE, Lot 7 DP 807906,199 Forest Way, BELROSE, subject to the conditions printed below:

Signed



Date: 19 November 2020

Lashta Haidari, Principle Planner

The application is determined under the delegated authority of:



Date: 19 November 2020

Anna Williams, Development Assessment Manager