

NORTHERN BEACHES COUNCIL

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/1000
Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 100 DP 1114910, 207 Forest Way BELROSE
Proposed Development:	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 Lendlease Retirement Living Holding Pty Ltd
Applicant:	Lendlease Retirement Living Holding Pty Ltd

Application Lodged:	11/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	24/01/2022 to 14/02/2022
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 the consent in the following manner:

- 5 new garages to replace 8 garages that were approved in the original development application;
- New potable water generator;
- Removal of the remainder of the Building D detention basin in lieu of retaining the existing detention basin; and
- Minor updates to the landscape scheme.

Car Parking

Building D was previously proposed as part of the original development application (DA2018/1332) which accounted for 5 dwellings. The car parking provision provided for a total of 69 car parking spaces within the basement under Building A and an additional 12 spaces accessed from an internal roadway which was associated with Building D and the retained units 1-9. The development consent required the deletion of Building D, however there was no change to the overall car parking provision.

Therefore, the deletion of Building D comprising 5 dwellings requires the removal of 7 on-site car spaces. This however results in the retention of the basement car park (unchanged) of 69 spaces and 5 garaged spaces accessed via the internal road (which are provided for the retained existing dwellings opposite).

This amendment will ensure consistency with the development consent to remove 7 car spaces associated with Building D. All other details of car parking associated with the approved development for Buildings A to C remain unchanged.

Detention Basin

The proposal will remove the Building D detention basin as Building D has been deleted and will make use of the existing detention basin on site. The existing bushland will be retained as maintained bushland in place of the removal of the detention basin.

Tree Removal

Tree No. 126 was identified as being retained in the Aboricultural Impact Assessment, however the tree has been impacted by the recent stormwater and therefore cannot be retained.

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

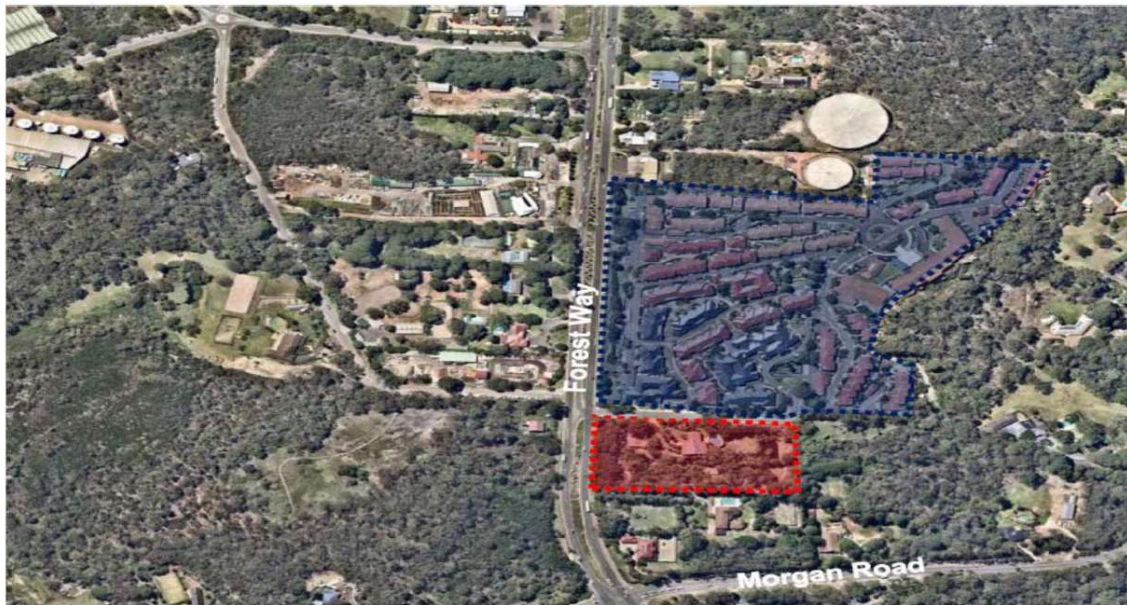
There are no assessment issues.

SITE DESCRIPTION

Glenaeon 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 Gleneaeon Village site on the opposite side of Glenaeon 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 Glenaeon 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.
- Section 4.55(1A) Modification Application (Mod2020/0299) which was approved on 6 October 2020 and relates to minor design development refinements and discrepancies in the approved architectural plans;
- Section 4.55(1A) Modification Application (Mod2020/0365) which was approved on 30 September 2020 and relates to amendments to condition 11 of the development consent;

- Section 4.55(1A) Modification Application (Mod2020/0508) which was approved by Council on 19 November 2020 for the removal of one tree to allow for the installation of an Ausgrid substation.
- Section 4.55(1A) Modification Application (Mod2020/0624) which was approved by Council on 10 December 2020 for amendments to conditions 11 relating to road and footpath reconstruction works;
- Section 4.55(2) Modification Application (Mod2020/0431), was refused by the Sydney North Planning Panel on 27 January 2021.

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 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
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	<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"> • The modifications do not result in an increase the maximum height of buildings, or alter the

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Section 4.55(1A) - Other Modifications	Comments
	<p>approved floor space, and will not result in any changes to the approved buildings; and</p> <ul style="list-style-type: none"> The qualitatively essential parts of the approved development all remain unchanged, including the overall built form and urban design, the impacts on surrounding development, traffic and parking, public domain, and residential amenity.
(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.
<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>	The modification application was notified in accordance with the NBCPP and Regs.
(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 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

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Section 4.15 'Matters for Consideration'	Comments
	(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 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 LEP 2000 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality</p>

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Section 4.15 'Matters for Consideration'	Comments
	considering the character of the proposal. (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.
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 24/01/2022 to 04/02/2022 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

External Referral Body	Comments
NSW Rural Fire Service	The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amendments and raises no objections subject to compliance with our previous terms of approval dated 01/10/2020 for the existing buildings proposed.
Natural Resources Access Regulator (NRAR)	The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required for the proposed works and no further assessment by this agency is necessary
Ausgrid	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Transport for NSW (TfNSW)	TfNSW has reviewed the proposed modification will and has no objections regarding the modification.

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions

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		<p>of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental (unsewered lands)	Health	The proposed alterations will not impact the waste water management system on-site. We have no objections to the proposal.
Landscape Officer		No objections are raised to the proposed modifications.
NECC (Bushland and Biodiversity)		The modification will result in the existing detention basins within the drainage line to remain. The existing consent includes the requirement for weed management across the site, implementation of a Landscape Plan, as well as a Fuel Management Plan that would apply to the bushfire asset protection zone. The ongoing restoration and management of the bushland areas and native vegetation on the site, should be conducted in accordance with the existing consent and management plans, including the recommendations contained within the approved Biodiversity Development Assessment Report (Keystone Ecological). This must include the areas within and surrounding the basins.
NECC (Development Engineering)		<p>No objections to the proposed modification to delete the on-site stormwater detention requirement for Building D as building D has been deleted.</p> <p>The existing detention basin will be maintained.</p>
NECC (Riparian Lands and Creeks)		<p>The statement of modification is proposing the removal of the remainder of the Building D detention basin in lieu of retaining the existing detention basin.</p> <p>Removal of the existing instream basin is permitted if the creek is reinstated and naturalised up to the toe of the cliff face to collect seepage.</p> <p>The creek and area adjacent to the creek (corridor and downstream instream basins) is to be maintained as native vegetation corridor, if degradations occurred during construction the basins and the creek shall be rehabilitated to a natural state.</p>
NECC (Water Management)		<p>This application has been assessed against relevant legislation and policy relating to waterways, riparian areas, and groundwater.</p> <p>No objections to approval subject to riparian and creek referral conditions.</p>
Traffic Engineer		Glenaeon Retirement Village Stage 1 was approved by the Sydney North Planning Panel on 1 May 2019, however as part of the conditions, Building D which was proposed as part of DA2018/1332 was to be removed due to the adverse impacts the building would have on a bushland area of the

	<p>site, including ecology, riparian environment landscaping and stormwater.</p> <p>The proposed modification is for the removal of 7 on-site car spaces that were associated with Building D. All other details of car parking associated with the approved development of Building A, B & C remain unchanged.</p> <p><u>Parking</u></p> <p>NSW State Environmental Planning Policy (Seniors Living) 2004 states standards for self-contained dwellings, the parking requirements are:</p> <ol style="list-style-type: none"> I. 0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider, or II. 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, the Department of Housing or a local government or community housing provider. <p>The visitor parking requirements are:</p> <ol style="list-style-type: none"> I. In the case of development that comprises 6 or less dwellings and is not situated on a clearway—1 space for visitor parking is provided within the development with a maximum parking period of 4 hours, or II. in the case of development that comprises 7 or 8 dwellings and is not situated on a clearway—2 spaces for visitor parking are provided within the development with a maximum parking period of 4 hours for each space. <p>In accordance with DA2018/1332, it was originally proposed to provide 60 dwellings (26 x 3 bedroom and 34 x 2 bedroom dwellings). The consent was approved with a condition requiring the removal of Building D which accounted for 5 x 2 bedroom dwellings, there will therefore be 55 dwellings constructed including 26x3 bedroom dwellings and 29x 2 bedroom dwellings.</p> <p>The parking requirement for the approved development is as follows:</p> <ul style="list-style-type: none"> • 26 x 3-bedroom dwellings @ 0.5 spaces per room = 43.5 spaces
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	<ul style="list-style-type: none"> 29 x 2 bedroom dwellings @ 0.5 spaces per room = 29 spaces <p>A total of 72.5 spaces are required.</p> <p>The approved development provides for a total of 81 parking spaces including:</p> <ul style="list-style-type: none"> 69 spaces within the basement under Building A 12 spaces accessed from an internal roadway associated with Building D <p>The modification of the DA proposes the removal of 7 of the 12 parking spaces accessed from the internal roadway and associated with Building D. As the required parking numbers to support the development will still be available the modification is supportable from a traffic engineering perspective.</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.

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

The proposed modification relates to a material change to the development it will not impacted the NatHERS thermal energy modelling results, nor the BASIX outcome. A revised BASIX Certificate is therefore not required.

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 63 – Landscaping

The proposed landscape design will retain the key features of the approved development, including the walkways and turfed areas and courtyards, however, will introduce the following elements to the design:

- Pedestrian bridge realigned to Level 3;
- New potable water generator adjacent to the Building A driveway and basement car parking;
- Minor realignment of terraces facing the driveway on Building A;
- Revised plank finish to the grand staircase and bridge; and
- Minor adjustments on walkway to main path near veggie gardens.

The revised landscaping scheme is shown on the updated Landscape Plans, which has been reviewed by Council's Landscape officer, whom have raised no objection to the amended Landscape design.

Clause 74 – Provision of Carparking

The parking requirement for the approved development is as follows:

- 26 x 3-bedroom dwellings @ 0.5 spaces per room = 43.5 spaces
- 29 x 2 bedroom dwellings @ 0.5 spaces per room = 29 spaces

A total of 72.5 spaces are required.

The approved development provides for a total of 81 parking spaces including:

- 69 spaces within the basement under Building A
- 12 spaces accessed from an internal roadway associated with Building D

The modification of the DA proposes the removal of 7 of the 12 parking spaces accessed from the internal roadway and associated with Building D. The proposed parking numbers continues to comply with the requirement of this Clause.

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 (APPROVAL)

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/1000 for Modification of Development Consent DA2018/1332 granted for Demolition works and construction of major additions to Glenaeon Retirement Village, including self-contained dwellings and a new residential care facility on a neighbouring lot, with associated carparking, landscaping and public road modifications on land at Lot 100 DP 1114910,207 Forest Way, BELROSE, Lot 100 DP 1114910,207 Forest Way, BELROSE, subject to the attached conditions:

Signed



Date:

Lashta Haidari, Principle Planner

The application is determined under the delegated authority of:

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COUNCIL

A handwritten signature in blue ink, appearing to read 'Steven Findlay', with a stylized flourish at the end.

Date: 12.4.2022

Steven Findlay, Development Assessment Manager