



**STATEMENT OF ENVIRONMENTAL EFFECTS
SECTION 96(1A) MODIFICATION
OF DEVELOPMENT CONSENT NO.DA2009/1693
FOR THE REDEVELOPMENT OF THE OLD DARBY
AND JOAN PRECINCT INVOLVING DEMOLITION OF
EXISTING SELF-CONTAINED DWELLINGS AND
ASSOCIATED STRUCTURES AND CONSTRUCTION
OF 64 SELF-CONTAINED DWELLINGS
RSL ANZAC VILLAGE - "The War Vets"
VETERANS PARADE, NARRABEEN**



**By
BBC Consulting Planners**

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1. INTRODUCTION

1.1 Overview

This report has been prepared on behalf of Humel Architects to accompany an application to modify Development Consent No.DA2009/1693 under the provisions of Section 96(1A) 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. DA2009/1693 was approved by Warringah Council on 18 May 2010 for the demolition of existing buildings and associated structures and construction of 67 self-contained dwellings for older people and people with a disability within the Old Darby and Joan precinct of the RSL War Veterans Retirement Village at Veterans Parade, Wheeler Heights. A copy of the consent is provided at **Appendix 1**.

Following approval of the DA, RSL LifeCare Limited have carried out a review of the approved plans concurrently with the existing operation of the village. This has resulted in the need for a modification to the consent. The requested modifications to the approved development involve the provision of a central area for visitor parking closer to the entrance to the site. This results in the replacement of 6 of the approved over/under self-contained townhouses with 3 self-contained units over a 25 space village carpark, with access from Second Avenue. This will reduce the number of approved new dwellings from 67 to 64 dwellings.

The above amendments are of a minor nature in the context of the approved development and will result in a development which continues to exhibit design excellence and compliance with the Seniors Living SEPP.

Given the '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.

1.3 Supporting Documents

This report is accompanied by:-

- a copy of the development consent conditions (see **Appendix 1**),
- an architect's statement prepared by Humel Architects (see **Appendix 2**);
- landscape plans prepared by Taylor Brammer Landscape Architects Pty Ltd (see **Appendix 3**);
- Traffic and parking assessment prepared by Varga Traffic Planning (see **Appendix 4**);
- BCA Assessment Report prepared by Private Certifiers Australia (see **Appendix 5**);
- Stormwater drainage details prepared by Taylor Consulting (see **Appendix 6a**)
- Stormwater Management Plan prepared by Taylor Consulting (see **Appendix 6b**);
- Access Review prepared by Accessible Building Solutions (see **Appendix 7**);
- Bushfire Hazard Assessment prepared by Building Code & Bushfire Hazard Solutions (see **Appendix 8**);
- Geotechnical Investigation and Stability Assessment prepared by JK Geotechnics (see **Appendix 9**); and
- BASIX Report prepared by Efficient Living (see **Appendix 10**);
- Arborist Report by Paul Mabbott's Tree Service (see **Appendix 11**); and
- Waste Management Plan prepared by Humel Architects (see **Appendix 12**)

These are submitted under separate cover.

2. THE SITE

2.1 Location

The RSL ANZAC Village consists of a number of 'precincts'. Development Consent No.DA2009/1693 relates to the Darby and Joan precinct, specifically, the Old Darby and Joan Precinct.

The Old Darby and Joan Precinct is located in the south eastern part of the village and fronts the northern side of Lantana Avenue. The dwellings fronting Lantana Avenue are setback between 10 metres and 24 metres from Lantana Avenue. The site falls away from Lantana Avenue at this point and the Old Darby and Joan dwellings are located approximately 3.5 metres below the footpath level of Lantana Avenue.

2.2 Access

Vehicle access to the Old Darby and Joan precinct is via the internal village roads, First Avenue and Second Avenue which intersects with Edmondson Drive. Edmondson Drive is one of the main internal roads in the village and intersects with Veterans Parade, which provides the main vehicular access to the village.

Pedestrian access to Lantana Avenue by residents of Old Darby and Joan is available via a number of ramps and set of stairs.

2.3 Existing Buildings

The Old Darby and Joan Precinct consists of 30 single storey, self-contained dwellings. The dwellings are brick cottages with tiled hipped roofs consisting of two attached units in the form of one cottage. Development Consent No.DA2009/1693 related to 22 of the 30 dwellings, being dwellings No.3 – No.24. Dwelling No.1 and No.2 did not form part of the DA and are to remain as part of the village.

Dwelling No's 25-30 formed part of the redevelopment of the New Darby and Joan Precinct (which were the subject of a separate DA).

2.4 Land the Subject of this Section 96 Application

The land the subject of this Section 96 application is the same as the land to which the development consent relates being *Lot 2641 DP752038 and Lot 2036 DP752038 and Lot 1 Veterans Parade Wheeler Heights*. The location of the modification currently consists of existing Dwelling No's 5 and 6 and vacant land to the north of these dwellings. It is bound by Edmondson Drive to the east and Second Avenue to the west and the intersection of Edmondson Drive and Second Avenue to the north. Development Consent No.DA2009/1693 approved the erection of 10 dwellings (Units 51-60), demolition of Dwelling No's 5 and 6 and erection of a new community room in this location.

3. PROPOSED MODIFICATIONS

3.1 Introduction

The following subsections of this report are structured as follows:

- a general discussion about the amendments;
- rationale for the various design amendments;
- detail of the condition of consent which is requested to be modified.

The proposed design modifications are shown on the set of amended DA drawings, prepared by Humel Architects, which accompanies this application.

3.2 Proposed Amendments

3.2.1 Overview

The proposed modification involves 6 of the approved over/under townhouses (approved dwelling No's 51-56) which are located at the northern end of the Old Darby and Joan precinct. It is proposed to replace the 6 dwellings with 3 attached dwellings over a 25 space village carpark. Approved dwelling No's 57-60 to the south and 45-50 to the west are not proposed to be amended as part of this application.

The car park will be used by visitors to the development and to other residential buildings on the site.

3.2.2 Built Form

The proposed amendments have been designed to reflect the approved built form. The proposal is 2 storeys in height as per the approved development. The building has been sited to address both Edmondson Drive and Second Avenue, with similar setbacks to the approved development.

An Architectural Statement has been prepared by Humel Architects to accompany the Section 96 application (see **Appendix 2**).

3.2.3 Parking and Vehicle Access

The proposed modification involves the erection of a 25 space carpark beneath the 3 proposed units. Access to the carpark is to be from Second Avenue.

Parking for the proposed 3 units will be in the form of single garages for each unit, accessed off Edmondson Drive as is the case with the approved plans.

A Traffic and Parking Assessment has been prepared by Varga Traffic Planning to accompany the Section 96 application (see **Appendix 4**).

3.2.4 Excavation

The approved dwellings (i.e. 51, 53, 55) had unit floor levels between RL 57.40 and RL 57.75. The proposed car park will have a finished floor level of RL 57.70. Thus, the depth of excavation is not proposed to be increased as part of this application. However, to accommodate the car park a larger footprint is proposed with additional excavation to the east proposed.

A Geotechnical Investigation and Stability Assessment has been prepared by JK Geotechnics to accompany the Section 96 application.

3.2.5 Tree Removal

The existing tree which adjoins the proposed driveway off Edmondson Drive was proposed to be retained as part of the DA and it was intended to retain the tree as part of this application. However, an investigation by Paul Mabbott's Tree Service found that the tree is in poor health. As such it is now proposed to remove this tree. The arborist concludes that *My opinion is this tree should be removed and when completion of works is done a replacement blood wood of significant size should be put back in same place so as to grow within the so rounding area.*

3.2.6 Accessibility

A Statement of Compliance for Access for People with a Disability has been prepared by Accessible Building Solutions to accompany the Section 96 application (see **Appendix 7**). The report found that the proposal is able to comply with the relevant access provisions of the BCA and is able to comply with the spatial requirements of the Seniors Housing SEPP.

3.2.7 BCA Compliance

Private Certifiers Australia have reviewed the amended drawings and have advised that the proposal as modified is able to comply with the BCA 2013 subject to further detailed construction drawings (see **Appendix 5**).

3.2.8 Bushfire

A Bushfire Hazard Assessment has been prepared by Building Code & Bushfire Hazard Solutions (see **Appendix 8**). The assessment found no bushfire hazard within 140 metres of the proposed units in any direction. The report recommends that the bushfire evacuation plan be amended to include the new units.

3.3 Rationale for Changes

Following approval of the DA, RSL LifeCare Limited carried out a detailed review of the approved plans concurrently with the existing operation of the village and identified a demand for an accessible and centrally located parking area for visitors to the proposed development and the site generally.

The demand for additional parking within this part of the village relates to the distance to the main vehicle entrance to the village being only 80 metres from Entrance B off Veterans Parade.

Additionally, due to the large expanse of the village, residents of the village will often drive from the lower parts of the site and park in this location to access social activities, health services and visit other residents located in this part of the village.

As such, the demand for additional visitor parking has driven the need for the proposed changes to the approved DA. It provides a centralised location for visitor parking associated with this development and other residential developments on the site and reduces pressure on parking along the internal road network.

3.4 Proposed Modification of Development Consent and Consent Conditions

3.4.1 Notice of Determination

- The description of the proposed development is required to be modified to reflect the proposed reduction in self-contained dwellings from 67 to 60.

3.4.2 Condition 1 – Approved Plans and Supporting Documentation

Condition No.1 is required to be amended to reflect the amended architectural, landscape and engineering 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 associated resident parking and visitor parking on the internal streets;
- The number of approved additional units has been reduced from the 67 to 64;
- The building remains a 2 storey structure generally in the same location as the approved development and generally in the same building envelope;

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 by Efficient Living (see Appendix 10).

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 Old Darby and Joan precinct is 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 portion of the site the subject of this Section 96 application is not located within close proximity to any of the above heritage items. A Heritage Impact Assessment was prepared by Design 5 to accompany the original DA. The assessment and recommendations remain relevant to this application.

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 Geotechnical Investigation and Stability Assessment has been prepared by JK Geotechnics to accompany this application (see Appendix 9).

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 consistent with Warringah DCP 2011. The relevant development controls as contained the Warringah DCP are addressed in the table below.

General Principal	Consistent?	Comments
C8 Demolition and Construction C9 Waste Management	Yes	A Waste Management Plan has been prepared by Humel Architects (see Appendix 12).
D1 Landscaped Open Space and Bushland Setting	Yes	An amended landscape plan has been prepared by Taylor Brammer to accompany the Section 96 application (see Appendix 3) With well over 40% of the village area as a whole being landscaped the proposal will comply with the control.
D3 Noise	Yes	Noise during construction will be minimal. Due to the location of the buildings within the site, construction noise will be indiscernible from outside of the site.
D9 Building Bulk	Yes	The proposed amendments are consistent with the approved building bulk in this location.
D10 Colours and Materials	Yes	The colour and materials of the proposed replacement building will match the approved Old Darby and Joan redevelopment.
D11 Roofs	Yes	The roof of the proposed replacement building will match the materials and pitch of the approved Old Darby and Joan redevelopment.
D12 Glare and Reflection	Yes	Any new artificial lighting required will be designed so as to minimise light overspill to adjoining occupants of the village.

General Principal	Consistent?	Comments
F3 SP1 Special Activities War Veterans Village, Narrabeen	Yes	The proposed development is consistent with the War Veterans site, The proposed replacement building is below the predominant tree line when viewed from the Narrabeen Lagoon viewing catchment.

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)(b) that for the purposes of Section 79C(1)(a)(iv) of the Act, and in relation to a DA for the demolition of a building, the provisions of Australian Standard AS 2601-1991: The Demolition of Structures, published by Standards Australia and in force as at 1 July 2003 are to be taken into consideration by Council.

The applicant intends to comply with the relevant requirements of AS 2601 when demolishing any structure on the site.

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 Statement of Environmental Effects accompanying the original development application was accompanied by a range of technical reports, and included a detailed assessment of environmental impacts. This assessment 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 sediment and erosion control plan and through the implementation of ESD initiatives in the demolition, construction and operation of the proposed development. The modifications are located in close proximity to an existing tree. This tree has been found to be in poor health and incapable of withstanding impacts from development in the vicinity. This tree has

been assessed by an arborist (Appendix 11) who concluded: *My opinion is this tree should be removed and when completion of works is done a replacement blood wood of significant size should be put back in same place so as to grow within the so rounding area.*

Impacts on the built environment

Character, siting, bulk and scale

The character, siting, bulk and scale of the development as proposed to be modified will be compatible with the approved redevelopment scheme for the Old Darby and Joan precinct.

Overshadowing

As the proposed modifications are of similar bulk and scale to the approved development scheme, the proposal as modified will not result in any additional adverse overshadowing impacts on existing dwellings within the village.

Crime Prevention Through Environmental Design

The proposal as amended continues to incorporate the principles of Crime Prevention Through Environmental Design including:-

- **Surveillance:-**
 - o natural street surveillance from all dwellings; and
 - o driveways are shared pedestrian and vehicular zones and natural street surveillance applies
- **Lighting:-**
 - o lighting will be street pole lighting to all streets.
- **Landscaping:-**
 - o the landscape design features a park-like setting with trees in grassed areas and small areas of feature shrub and native planting adjacent to dwelling entries; and
 - o species are to be selected on basis of height, bulk and shape.
- **Territorial Reinforcement:-**
 - o entrances and exits to the dwellings are clearly discernible and directly from shared driveway/path zone;
 - o clear and legible way-finding signage will be provided; and
 - o footpaths and landscaping will define semi-private space at ground level.
- **Access control**
 - o Entry points to the village site have been minimised. No new driveways into the village are proposed as part of this application.

Traffic and Car parking Impacts

Traffic and parking impacts are assessed in the report prepared by Varga. In regards to parking implications the report concludes that :-

".. the proposed parking facilities satisfy the relevant requirements specified in the Warringah LEP 2000, DCP 2011 and AS2890.1 requirements and it is

therefore concluded that the proposed development will not have any unacceptable parking implications.

And in regards to traffic generation the report concludes that:

"..projected decrease in the traffic generation potential of the site as a consequence of the development proposals will clearly not have any unacceptable traffic implications in terms of road network capacity."

Landscaping

The area surrounding the development site is to be landscaped in accordance with the landscape plan. The landscape plan will result in a significant positive improvement to the landscape design qualities of the site.

Stormwater

As detailed in **Appendix 10**, provision is made for managing the quantity and quality of stormwater runoff from the site.

BCA

A BCA Statement has been prepared by PCA who concluded that the development as modified is capable of complying with the BCA 2013 (**Appendix 5**).

Social and economic impacts

The proposed modification will not modify the social and economic impacts as outlined in the Statement of Environmental Effects accompanying DA2009/1693.

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 significant adverse impacts on the built environment.
- The proposed modifications will have no significant adverse impacts on the natural environment.
- The proposed modifications will have no significant 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.