

**SECTION 96 (2) MODIFICATION OF DEVELOPMENT CONSENT ISSUED BY THE
JOINT REGIONAL PLANNING PANEL**

Reporting Officer: Malcolm Ryan – Director of Strategic & Development Services for Warringah Council

Address / Property Lot 1 DP 803645
Lot 1/ Veterans Parade, Wheeler Heights

Description:

- To modify Development Consent No DA2010/0166 issued for the Re-Development of the Village Centre precinct within the RSL War Vets Retirement Village.

Modification Application No: Mod2010/0283

Development Application No DA2010/0166

Plans Reference: DA01 – DA18 (Issue B) prepared by Humel Architect.

Applicant: TSA Management

Owner: Rsl Lifecare Limited

Application Lodged: 12 November 2010

Amended Plans: No

Locality: B6 War Veterans

Category: Category 1 (Housing for older people or people with a disability);
Category 3 – (Offices)

Clause 20 Variations: Not applicable to this application

Draft WLEP 2009 Permissible with consent under the Zoning (SP1 Special Activities)

Land and Environment Court NO

Action:

Referred to WDAP: NO

Referred to JRPP: YES (The original application was determined by JRPP)

SUMMARY

Submissions: No submissions were received

Submission Issues: None

Assessment Issues: Section 96 (2) criteria of the EP & A Act 1979, Desired Future Character for the B6 Locality, SEPP (HSPD) 2004, and SEPP 65.

Recommendation: Section 96 (2) Approval

Attachments: Site and Elevation Plans

LOCALITY PLAN (not to scale)



Subject Site: Lot 1 DP 803645, Lot 1/ Veterans Parade, Wheeler Heights.

Public Exhibition: The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 88 adjoining land owners and occupiers for a period of 21 calendar days commencing on 26 November 2010 and being finalised on 1 January 2011. Furthermore, the application has been advertised within the Manly Daily on 27 November 2010 and a notice was placed upon the site.

No submissions were received as a result of the notification process.

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 Village comprises the following Lot titles:

- Lot 2611 – DP 752038
- Lot 573 – DP 752038
- Lot 1-DP 803645

- Lot 1 – DP 774980
- Lot 2026 – DP 752038
- Lot 2641-DP 752038

The development of the Village Centre is to be carried out on Lot 1 DP 803645, and is located in the centre of the RSL Anzac Village, in the north eastern portion of the site. The proposed Village Centre consists of a number of buildings including the village office, bowling club, Montgomery Centre as well as two bowling greens. The following is a description of development surrounding the proposed development site:

To the north of the Village Centre is a Hostel (known as Kokoda Hostel), a 2 storey building providing seniors housing in the form of a 63 bed residential aged care facility. To the north of Kokoda Hostel is Colooli Road, a public road connecting the Village to Veterans Parade and providing one of the main access points for the village. Beyond Colooli Road is the 'Anzac House' precinct which contains, Legacy Park (also known as Anzac House) building, which is a 2 storey heritage listed building and a recently constructed 3 storey building containing 18 self contained dwellings.

To the south of the proposed Village Centre is Edmondson Drive (an internal road), beyond which is the new Darby and Joan Precinct which is currently occupied by 25 single storey (self – contained dwellings).

To the east of the proposed Village Centre is the Colooli precinct which consists of 44 single and two storey self – contained dwellings (No's 200-243). To the west of the proposed development is Endeavour Drive (an internal road), beyond the road in another Hostel (known as Connie Fall Hostel).

To the west of the Village Centre is Endeavour Drive, an internal road. Beyond Endeavour Drive is Connie Fall Hostel, a single storey residential aged care facility.

The RSL village as whole 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.

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 Application

Development Application DA2010/0166 was lodged with Council on 8 February 2010. The application was assessed and reported to the Joint Regional Planning Panel (JRPP) with a recommendation for approval. The application was granted consent by the JRPP Panel at its meeting held on 13 May 2010 (JRPP ref No. 2010SYE016). The approved development comprises the following:

1. The Construction of a 3 – 5 storey Village building containing:
 - 18 self contained dwellings in the form of 10 x 2 bedrooms plus study and 8 x 2 bedrooms apartments;
 - Communal facilities (lounge, dining, billiards room, bar, brasserie);
 - 22 staff offices and boardroom;
 - 4 overnight visitor/careers units;

2. Internal and external works to the existing bowling club (including removal of Dugout Café and Diggers Inn) to accommodate a Chapel and War and Village Museums;
3. Internal and works to the Montgomery centre and associated hardstand area to accommodate roofed outdoor assembly area with associated stage;
4. Additional recreational areas including mini golf course, boules, children's playground and outdoor chest board;
5. Demolition of a number of existing structures;
6. site works including excavation;
7. associated site landscaping including planting and paving;
8. provision of utility services to the new building; and
9. Stormwater management works.

PREVIOUS APPROVED MODIFICATIONS

Development application DA 2010/0166 has not been the subject of any previous modification applications.

MODIFICATION PROPOSAL IN DETAIL

The modification application seeks to amend consent (DA2010/0166) as follows:

- Modify the internal layout of the apartments to improve the internal amenity and solar access and provide the apartments with larger balconies;
- Modify the internal layout of the ground floor community facilities and lower level office;
- Modify the unit mix to provide an increased number of bedrooms within the apartments (i.e. all 22 apartments will now consist of 2 bedrooms plus a study);
- Modify the eastern and western building façades to increase modulation and balcony spaces;
- Modify the building envelope which includes an increase in the footprint of the building to the south;
- Change the 4 overnight visitors units (approved as temporary accommodation) to three (3) residential apartments;
- The removal of one (1) additional tree to accommodate the modified building and minor relocation of Stack Street (internal Road); and
- Modifying the entry point to improve accessibility to the community facility from the existing village.

The proposed changes to each approved drawing is summarised in the Statement of Environment Effects prepared by BBC Consultant Planners as stipulated below;

Drawing		Modification
DA1.01	Village Centre Site Master Plan	Modified to show changes to village centre footprint.
DA1.02	Village Centre Survey	No change
DA1.03	Village Centre Site Demolition Plan	Modified to show additional tree being removed and minor relocation of Stack Street.
DA1.04	Montgomery & Dugout Demolition Plan	No change
DA1.05	Village Centre Site Plan - North	<ul style="list-style-type: none"> • Minor relocation of basement entry point; • Redesign of porte cochere area and building entry • and minor relocation of Stack Street; and • Alteration to bowling green terrace and external landscaped areas.
DA1.06	Village Centre Site Plan - South	<ul style="list-style-type: none"> • Redesign of porte cochere area and building entry; • Alteration to external landscaped areas and activities; and • Adjustments to location of parking areas near entry.
DA1.07	Lower Ground Floor Plan	<ul style="list-style-type: none"> • Changes to main entry layout and office layout; • Small increase in basement footprint to west; and • Increase in parking spaces from 18 to 22.
DA1.08	Ground Floor Plan	<ul style="list-style-type: none"> • Changes in internal layout of village facilities and entry features; • Relocation of boules and other outdoor recreation elements; • Improved bowling club lounge and terrace; • Minor change building footprint including extension to the south.
DA1.09	First Floor Plan	<ul style="list-style-type: none"> • Changes in internal layout of apartments to improve amenity; • Change in number of units from 9 to 10 with all units comprising 2 bedrooms and a study; • Improved balcony spaces; • Reduction in access corridor length; and • Minor change building footprint including extension to the south and changes in layout resulting in improved façade design.
DA1.10	Second Floor Plan	<ul style="list-style-type: none"> • Changes in internal layout of apartments to improve amenity; • Improved balcony spaces; • Reduction in access corridor length; and • Minor change building footprint including extension to the south and changes in layout resulting in improved façade design.
DA1.11	Skylounge Third Floor Plan	<ul style="list-style-type: none"> • Changes in internal layout of sky lounge and its associated terrace area; • Conversion of 4 motel style units to 3 apartments; • Improved balcony spaces; • Deletion of plant rooms; • Minor change building footprint including extension to the south and changes in layout resulting in improved façade design.
DA1.12	Roof Plan	Inclusion of plant area.
DA1.13	Elevations	Modifications to elevations to improve façade

Drawing		Modification
		modulation to east and west.
DA1.14	Sections	Minor changes to floor levels with no overall Increase in building height.
DA1.15	Village Museum + Chapel Plan	No change except for interface with village centre Building.
DA1.16	Village Museum, Chapel Roof Plan, Elevations, Sections	No change except for interface with village centre Building.
DA1.17	Montgomery Centre Plan	No change
DA1.18	Montgomery Centre Roof Plan, Elevation and Sections	No change

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulation 2000
- c) State Environmental Planning Policy No. 55 – Remediation of Land
- d) State Environmental Planning Policy No. (Housing for Seniors or People with a Disability) 2004
- e) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- f) State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development
- g) State Environmental Planning Policy (Infrastructure) 2007
- h) Warringah Local Environment Plan 2000
- i) Warringah Development Control Plan
- j) Warringah Section 94A Development Contributions Plan
- k) Draft Warringah Local Environmental Plan 2009

REFERRALS

Comments from External Authorities

Rural Fire Services
The NSW Rural Fire Service has provided comments as the integrated authority (as defined by Section 91 of the EPA Act 1979) and has raised no objections subject to compliance with the amended terms of approval.

Comments from Internal Authorities

Natural Environment
Council's Natural Environment unit has reviewed the proposed modification and has raised no objection or any amended conditions.
Development Engineers
Councils' Development Engineer has reviewed the proposed modification and has raised no objection or any amended conditions
Heritage officer
Council's Heritage officer has reviewed the proposal and has provided the following comments:
<i>"Impact upon ANZAC War Memorial</i>
<i>While a significant new development, the proposed Village Centre is not in close proximity to the ANZAC War Memorial. Therefore, this heritage item will not be affected materially or visually as a result of the redevelopment proposals. However, given the amount of construction work and resultant traffic, care should be undertaken during construction to ensure that no damage occurs to the memorial structure. Condition 29 of the existing consent covers this.</i>

Impact upon building known as “Legacy Park”

The proposed Village Centre is a 3 – 5 storey building within view of the “Legacy Park” building. The heritage assessment report by Design 5 Architects addresses this issue and identifies a heritage curtilage around the building and a relationship with the main flagpole and main bowling green. A visual link is identified with the main flagpole and main bowling green, despite the fact that this is compromised by the Kokoda hostel. There is a major view corridor from “Legacy Park” to the north, over Narrabeen lakes and the building was most likely designed to take advantage of this view. The proposed Village Centre will have no impact upon this view to the north.

The new Village Centre, will not impact upon the view corridors or curtilage of the building known as “Legacy Park” and therefore it is considered that there will be no adverse impact upon its heritage significance. As the new Village Centre will be 3 – 5 storeys, it will be visible from “Legacy Park”, but it is not considered that it will visually intrude upon it.

Impact upon the overall historical significance of the RSL War Veterans Village

The RSL Anzac Village, or the War Veterans, as it is known as, has developed over some 70 years, with the first buildings built in 1939. The area is characterised by native bushland and most of the development to date has occurred on the highest parts of the site. It has continuously been developed since 1939, to meet the ever-increasing war veterans and other aged housing needs.

The building known as “Legacy Park” was the first main building, which was opened in 1939, along with 2 small cottages. Since the 1940’s a key design consideration for development has been for it to fit into the natural surroundings. The Kokoda and Tobruk Hostels were built to the south of “Legacy Park” in the 1940’s and development continued to progressively occur, with the old Darby and Joan cottages built in the 1950’s and the new Darby and Joan cottages completed in 1968.

The village site is characterised by continual building and change over its 70 years. It has been continuously used as aged care for war veterans and other elderly persons since its instigation in the late 1930’s. It is considered that the new Village Centre development is part of the site’s evolution to meet the current aged care needs in the community.

Conclusions

No objection is raised on heritage grounds to this modification (Mod2010/0283). No additional heritage conditions are required as a result of the proposed modification”.

Traffic Engineer

Council’s Traffic Engineer has reviewed the proposal and has provided the following comments:

“There are no objections to the modification on traffic grounds. However it is noted that Stack Street is to be realigned where it joins Coolooli Road. This intersection should be designed as a T junction if the section of Coolooli Road is a public road. SDS should obtain further advice on the status of Coolooli Road and further advice from Development Engineers with respect to submission of engineering plans for Council’s approval under section 138 of the Roads Act if Coolooli Road is a public road”.

Comment: A condition has been included in the recommendation of this report that addresses the comments made by Council’s Traffic Engineer.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 88 adjoining land owners and occupiers for a period of 21 calendar days commencing on 26 November 2010 and being finalised on 1 January 2011. Furthermore, the application has been advertised within the Manly Daily on 27 November 2010 and a notice was placed upon the site.

No submissions were received as a result of the notification process.

SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The subject application to modify Development Consent No. 2010/0166 has been lodged pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979.

Section 96(2) of the Environmental Planning and Assessment Act 1979 (the Act) stipulates:

'Other modifications

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 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*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The development as modified is considered to be substantially the same development as the development for which consent was originally granted. The changes proposed do not alter the height or scale of the approved development to any significant extent. No significant changes are proposed to the area occupied by the various uses approved within the development. The amenity to neighbouring properties will not be unreasonably 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 buildings and the public domain will remain largely unchanged.

In relation to Section 96(2) (b) the development application was integrated development requiring the general terms of approval of the RFS. The proposed modification was referred back to NSW Rural Fire Service, who has provided amended terms of approval, which will replace the original terms of approval.

As discussed in the 'Notification and Submissions' section of this report, the application has been advertised and notified in accordance with the Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan. No submissions were received as result of the notification for the proposed development.

Accordingly, the proposed modifications may be assessed pursuant to Section 96(2) 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 environmental planning instrument. See discussion under "State Environmental Planning Polices" and "Warringah Local Environmental Plan 2000" in this report
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	Refer to discussions on Draft Environmental Planning Instruments in the body of the report.
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) - Provisions of any Planning Agreement or Draft Planning Agreement	None applicable.
Section 79C (1) (a)(iv) - Provisions of the regulations	<p>In accordance with Clause 115(1A) of the Environmental Planning and Assessment Regulation 2000 and 'Modification of consents' in Part 4 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65), if a S96(2) modification application relates to a residential flat development for which the development application was required to be accompanied by a design verification from a qualified designer under Clause 50(1A), the modification application must be accompanied by a design verification statement in which the qualified designer verifies that;</p> <p style="padding-left: 40px;">(a) <i>he or she designed, or directed the design, of the modification of the residential flat development, and</i></p> <p style="padding-left: 40px;">(b) <i>the residential flat development, as modified, achieves the design quality principles set out in Part 2 of <u>State Environmental Planning Policy No 65— Design Quality of Residential Flat Development</u>, and</i></p> <p style="padding-left: 40px;">(c) <i>the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was</i></p>

Section 79C 'Matters for Consideration'	Comments
	<p><i>granted.</i></p> <p>A design verification statement (Prepared by Ben Humel Architects) has been submitted with the application.</p> <p>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.</p>
<p>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</p>	<p>(i) The proposed modifications will not result in any adverse impacts on the natural or built environment as the proposed modifications will be consistent with the desired future character statement and the relevant general principles of development control in WLEP 2000.</p> <p>(ii) The proposed modifications will not have a detrimental social impact in the locality as only minor internal and external changes are proposed.</p> <p>(iii) The proposed modifications will not have a detrimental economic impact on the locality considering no changes are proposed to the mix of uses within the development and no changes are proposed to the area occupied by non-residential uses within the development.</p>
<p>Section 79C (1) (c) – The suitability of the site for the development</p>	<p>The suitability of the site for the proposed development has been recognised by the issue of the original consent (DA2010/0166). The development site is capable of being provided with all the necessary services. All buildings are clear of the areas prone to flooding from the Lagoon and flood free access is provided. Building areas are relatively level and located on stable land. Bushfire risk is not increase by the modification compared to the original approved plans.</p>
<p>Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>In regards to public submissions refer to the discussion on "Notification & Submissions" within this report.</p>
<p>Section 79C (1) (e) – The public interest</p>	<p>The proposed modifications are generally 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.</p>

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: Seniors Housing and associated uses

Land Use Zone: SP1 Special Activities

Permissible or Prohibited: Permissible

Additional Permitted used for particular land – Refer to Schedule 1: Not Applicable

Principal Development Standards:

Development Standard	Required	Proposed	Complies	Clause 4.6 Exception to Development Standard
Minimum Subdivision Lot Size:	The proposed development does not seek to subdivide the land	NA	NA	N/A
Rural Subdivision:	Not applicable to the proposed development	NA	NA	NA
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	The subject site is not within rural or environmental zones.	NA	NA	NA
Height of Buildings:	There is no height control for this zone	NA	NA	NA

The proposed development is consistent with the aims and objectives of the Draft WLEP 2009 as it is permissible within the SP1 zone.

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 the original application, 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.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) applies to the development.

Amended BASIX certificates for the residential component of the development have been submitted. The certificates confirm that the proposed development (as amended) meets the NSW government's requirements for sustainability. The development meets the water and energy performance targets and achieves a pass for thermal comfort.

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.

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

The subject application to modify the original consent has been lodged under the provisions for older people or people with a disability within WLEP 2000 not under the provision of State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 (SEPP HSPD).

Notwithstanding the above, SEPP HSPD applies within the State of NSW. As such, SEPP HSPD is relevant to the assessment of this application. However, any clauses in SEPP HSPD which are prefaced for their operation with the words 'development application made pursuant to this chapter' would not be relevant to the application as per the NSW Land and Environment Court decision of Talbot J on 31 May 2004, in *Mete v Warringah Council* (2004 NSWLEC 273).

In accordance with Section 79C of the EPA Act 1979, the assessment of this application has taken into consideration the relevant provisions of SEPP HSPD as per the above noted NSW LEC decision. As SEPP HSPD does apply (in part) to Warringah Council, an assessment is provided with regard to the relevant provisions of SEPP HSPD, as follows:

Chapter 1 – Preliminary

The proposed modifications are considered to be consistent with the aims of the policy, in that the modifications will maintain the approved increase in the supply and diversity of residences to meet the needs of seniors or people with a disability, the development will continue to make efficient use of existing infrastructure and services available to the site and in the locality, and the proposed development is considered to be of satisfactory design.

The proposed modifications is considered to maintain consistency with the definitions contained in this policy, the policy applies to land within Warringah and there are no agreements or covenants that require suspension.

Accordingly, on this basis, it is considered that the proposed modifications are consistent with the provisions outlined under Chapter 1 of SEPP HSPD.

Chapter 2 – Key concepts

The proposed modifications are consistent with the key concepts contained within SEPP HSPD. The modified development will consist of 22 residential apartments, which will be used and occupied by seniors and people with a disability,

or other persons permitted by the SEPP. Appropriate conditions were placed on the original consent to restrict occupation of this building in accordance with the definitions outlined under the SEPP.

Accordingly, on this basis, it is considered that the proposed modifications are consistent with the provisions outlined under Chapter 2 of SEPP HSPD.

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards that are applicable only to development applications made pursuant to SEPP HSPD. However, as the modification application was made pursuant to WLEP 2000, the specific provisions prefaced for their operation with the words “made pursuant to this chapter” of Chapter 3 do not apply. There are no relevant provisions of Chapter 3 applicable to this development application.

Chapter 4 – Miscellaneous

The proposed amended development is not inconsistent with the provisions contained in Chapter 4. The site where the development is proposed is not on environmentally sensitive land, is not affected by amendments to other SEPPs, and the special provisions do not apply to this land.

Accordingly, no further assessment of the application is required under Chapter 4 of the SEPP.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

In accordance with ‘Modification of consents’ in Part 4 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) if a S96(2) modification application relates to a residential flat development for which the development application was required to be accompanied by a design verification from a qualified designer under Clause 50(1A), the modification application must be accompanied by a design verification statement in which the qualified designer verifies that;

- (a) he or she designed, or directed the design, of the modification of the residential flat development, and*
- (b) the residential flat development, as modified, achieves the design quality principles set out in Part 2 of State Environmental Planning Policy No 65— Design Quality of Residential Flat Development, and*
- (c) the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.*

An amended design verification statement has been submitted.

The proposed changes do not alter the proposal’s consistency with the ten design quality principles in SEPP 65 therefore no further consideration of these principles is necessary.

Residential Flat Design Code

The proposed modifications only result in minor internal and external changes to the building and do not alter the proposal's consistency with the design guidelines in the Residential Flat Design Code.

Regional Environment Plans (REP's)

There are no REP's applicable to the assessment of this application

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 presence in the Narrabeen Lake viewing catchment is 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.

Visually and ecologically significant vegetation species and communities and significant natural landforms will be preserved in their natural state. There will be no development within areas within the locality shown cross-hatched on the maps, except for path ways and other passive recreation purposes and the existing approved vehicular access.

The approved development incorporated the following categories of development in the B6 Locality:

Category 1

- Residential units (i.e. Housing for older people with disabilities) and all the associated communal facilities within the proposed village building (i.e. lounge and dining facilities, a library and billiard room).

Category 3

- **Temporary Accommodation** - Four (4) studio units (motel type accommodation) – which will be utilised as temporary accommodation by guests of residents and as “Try before you buy” units for those interested in becoming a resident of the village.
- **Place of worship** – The proposed Chapel and War and Village Museum.
- **Offices Administration** - offices and marketing offices (relocated from an existing building to the east of the bowling club building which is to be demolished).
- **Outdoor recreation facilities** - Shuffle board, Billiard room, Oversize chess board located on western terrace, mini golf course to the east and west of the building, and boules field.

The only change of use proposed in the subject modified application is the change the 4 units approved as temporary accommodation into three (3) residential apartments (i.e. a Category 3 use is converted back to Category 1 Land use). All other approved uses remain unchanged. Subject to clause 15 of the WLEP, an independent public hearing is only required prior to ‘granting of consent’ of an application. The category 3 uses have been granted consent under DA2010/0166 and as such a modification of consent is not ‘granting of consent’ therefore no independent public hearing nor statements in response schedule 15 are required for modification.

Clause 12 of WLEP 2000 provides that the consent authority is to consider the development against the localities Desired Future Character Statement. Accordingly, an analysis of the relevant components of the Desired Future Character of the B6 War Veterans Locality is as follows:

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

Comment: As indicated above, the only change of use proposed in the subject modified application is the conversion of the 4 units approved as temporary accommodation into 3 residential apartments (i.e. a Category 3 use is converted back to Category 1 Land use). All other approved uses remain unchanged as result of the proposed modification.

The proposed modification will increase the residential apartments to 22 self – contained dwellings that will be used for seniors and people with the disability and is therefore satisfactory with the intent and requirement of this component of the DFC in that it will continue to provide housing for older people and people with a disability.

The proposed modification does not purpose to introduce any additional uses onto the site which do not already exist. The approved communal facility and offices will continue to be associated uses to the primary use of the site for seniors housing.

For the above reasons, the proposed modification is found to be consistent with this component of the DFC.

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 presence in the Narrabeen Lake viewing catchment is reduced will be strongly encouraged.

Comment: In response to this component of the DFC, the applicant has submitted an amended visual impact study of the modified Village Centre building when viewed from the Narrabeen Lake viewing catchment. The visual impact study provides 3D models of the building and has been certified by a registered surveyor to ensure the veracity of the images and their relationship to the predominant tree line.

The Visual Impact Study shows that the modified building works are not readily visible from the Narrabeen Lake viewing catchment and the works are integrated within the existing pattern of development and would not be significantly distinguishable to that of surrounding and nearby structures. Accordingly, the proposed modification is found to be consistent with this component of the DFC.

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.

The proposed modification relating to the re-development of the Village Centre does not directly adjoins Veteran Parade or Lantana Ave.

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

Comment: The proposed modifications is largely confined to the approved building envelope and therefore no further disturbance of vegetation and landforms is anticipated as a result of the modified development.

In addition, the application has been determined to be satisfactory by the RFS on bushfire hazards issues and is satisfactory to Council's Natural Environment section in relation to bushland/catchment impacts. As such, the proposed development (as amended) is found to be consistent with this component of the DFC.

Visually and ecologically significant vegetation species and communities and significant natural landforms will be preserved in their natural state.

Comment: The proposed modification does not affect any visually or ecologically sensitive area identified in the locality.

There will be no development within areas within the locality shown cross-hatched on the maps, except for path ways and other passive recreation purposes and the existing approved vehicular access.

Comment: The proposed development is not located within the cross hatched areas as shown on the map.

Built Form Controls for Locality B6 War Veterans

The following table outlines compliance with the Built form Control of the above locality statement:

Built Form Standard	Required	Approved	Proposed	Compliance
Landscaping	40%	56%	52%	YES

Note: The calculation of the Landscape open space is based on the amended landscape calculation plans (Drawing No. 06 – issue B) provided by the applicant. The calculation does not include areas shown as cross hatched on the map.

Clause 20 Variation

Clause 20 Variations are not applicable to this development.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	YES	The modified Development does not result in overspill or glare from artificial illumination, or sun reflection, and does not unreasonably diminish the amenity of the locality. The modified development is satisfactory in addressing the General Principle.	YES
CL39 Local retail centres	NO	No Comment	Not Applicable

CL40 Housing for older people or people with disabilities

Clause 40 of WLEP 2000 provides that housing for older people or people with a disability with adequate access and compliance with the provisions of Schedule 16. An assessment of the requirements outlined under Clause 40 of the LEP is outlined as follows:

Control	Required	Proposed	Compliance
Adequate access to facilities (shops, bus stops, banks etc)	Site within 400m of a shopping centre or bus stop	The proposed development is located within 400m of: <ul style="list-style-type: none"> A local shopping centre on Veterans Parade providing a variety of shops, a medical practitioner and postal facilities. Residents of the Village have 24 hour, 7 day a week access to emergency assistance with care staff available to attend to independent residents who need emergency assistance. An on site clinic where a number of local doctors and health professionals 	YES

Control	Required	Proposed	Compliance
		<p>are also available to residents.</p> <ul style="list-style-type: none"> A bus stop that provides access to major regional shopping, commercial and recreational facilities including Warringah Mall, Manly, the City and Chatswood. <p>The village has a fleet of buses, which provides services to local amenities on a regular timetable.</p>	
Adequate access to services	Reasonable access to meals, nursing and housework	As indicated above, adequate services are located within the development, commercial centres and through Council's community services directory.	YES
Wheelchair access	<p><u>Site Gradient</u> 100% of dwelling to have continuous path of travel to public road, internal road or driveway</p> <p><u>Road Access</u> 10% of dwellings to have continuous path of travel to public road</p> <p><u>Common Areas</u> Access to be provided to all common areas and facilities</p> <p><u>Adaptability</u> 10% of dwellings to have a continuous path of travel to all essential areas and facilities inside the dwelling, including toilet, bathroom, bedroom and living area</p>	<p>In relation to this Clause, the applicant has provided an amended access report, prepared by Morris – Goding Accessibility Consultants, dated 3 November 2010.</p> <p>The report found that the site with less than 1:10 will provide wheelchair access to 100% (22) units as well the sky lounge via a continuous accessible path of travel to the public pedestrian footpath located at Colooli Road.</p> <p>The lift in the Village Centre building allows access to all floors and has internal dimensions that comply with the requirement of this Clause.</p>	YES

Schedule 16

The following is an assessment of the requirement outlined under Schedule 16 of WLEP 2000.

Control	Required	Proposed	Compliance
1. Identification	If more than one (1) street, street signage incorporating house numbers at each intersection	The existing village is well signed and the proposal will not introduce new signage.	Not Applicable
2. Security	Pathway lighting to be positioned at a low height and to be a minimum of 50 lux	Security lighting is currently provided throughout the village.	YES

Control	Required	Proposed	Compliance
3. Letterboxes in multi-dwelling developments	Must be lockable, located together in a central location adjacent to the street entry and be situated on a hard standing area with wheelchair access.	The proposal includes 1 letterbox per unit.	YES
4. Private car accommodation	Spaces are to be not less than 6m x 3.2m and garages are to have an internal clearance of 2.5m and must have a power operated roller door.	The car parking for the village centre is provided within the basement, which compliance with the minimal dimension.	YES
5. Accessible entry	All entries must have a slope that does not exceed 1: 40 and must comply with Clauses 4.3.1 and 4.3.2 of AS4299 and must have an entry door handle and other hardware that complies with AS 1428	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
6. Exterior – general	All external doors to any one (1) dwelling must be keyed alike.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
7. Interior general	Internal doors must have a clearance of at least 820mm and internal corridors must have a width of at least 1000mm and the width of internal door approaches must be at least 1200mm.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
8. Living & dining room	A living room must have a circulation space of at least 2250mm in diameter and as set out in Clause 4.7 of AS 4299 and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
9. Kitchen	A kitchen in a self-contained dwelling must have a width of at least 2.7m and a clear space between benches of at least 1450mm, and additional requirements as specified in the schedule (see schedule 16).	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
10. Main bedroom	The main bedroom must have an area sufficient to accommodate a wardrobe and a queen size bed and a minimum of 1200mm clear space at the foot of the bed, etc (see schedule)	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
11. Bathroom	A bathroom must have an area in compliance with AS 1428 and a slip resistant floor surface and a shower complying with requirements of schedule 16, etc (see schedule)	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
12. Toilet	A dwelling must have a toilet that is a visitable toilet within the meaning of Clause 1.4.12 of AS 4299, with a slip resistant floor surface, and additional requirements as per the schedule (see schedule 16).	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
13. Access to kitchen, main bedroom, bathroom	Kitchen, main bedroom, bathroom and toilet must be located on the ground floor, etc	The units are all single level.	YES

Control	Required	Proposed	Compliance
& toilet	(see schedule 16).		
14. Laundry	A self contained dwelling must have a laundry that has provision for the installation of an automatic washing machine, and dryers etc (see schedule 16)	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
15. Storage	Dwelling must have a linen cupboard that is at least 600mm wide and has adjustable shelving.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
16. Doors	Door hardware provided as the means for opening doors must be able to be operated with one (1) hand and located between 900mm and 1100mm above floor level.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
17. Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
18. Ancillary items	Switches must be located between 900mm and 1100mm above floor level and general purpose outlets must be located at least 600mm above floor level.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
19. Garbage	An outside garbage storage area must be provided in an accessible location.	Compliance with this standard is incorporated as a condition of consent in the original consent.	YES (subject to conditions)
20. Applications by certain housing providers	Clause 40 of the Warringah Local Environmental Plan 2000 and Clauses 7 – 19 of schedule 16 of Warringah Local Environmental Plan 2000 can be varied if the DA is made by the Department of housing, or a local government or community housing provider.	Not applicable.	Not applicable.
21. Neighbourhood amenity and streetscape	a. Contribute to an attractive residential environment with clear character and identity.	The amended proposal is considered to maintain neighbour amenity through design (built form, window location etc). The proposal will maintain adequate solar access to neighbouring properties and is not considered to create any sense of enclosure. The proposed developments have been designed to step back from Colooli Rd to minimise the apparent bulk.	YES
	b. Where possible, retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan,	The proposed amended ancillary facilities will not encroach into areas of rock outcrops or result in the removal of any vegetation.	YES

Control	Required	Proposed	Compliance
	c. Where possible, maintain reasonable neighbour amenity and appropriate residential character by providing building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing,	There is no specific height control for the B6 locality. The proposed development has been designed to minimise any visual amenity impact of the development on the adjoining development.	YES
	d. Where possible, maintain reasonable neighbour amenity and appropriate residential character by using building form and sitting that relates to the site's land form,	The proposed development is considered to satisfactorily compliment the residential character of the locality. The modification reduces the number of units, building area and building footprint.	YES
	e. Where possible, maintain reasonable neighbour amenity and appropriate residential character by adopting building heights at the street frontage that are compatible in scale with adjacent development,	The applicant has advised that it is not possible or desirable to maintain the predominantly two storey scale and bulk of the immediately adjacent built form. However, the proposed development has been designed by breaking the façade of the building through stepping the top storey of the building and stepping the development away from the internal street.	YES
	f. Where possible, maintain reasonable neighbour amenity and appropriate residential character by considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours,	The amenity to neighbouring properties will not be further compromised as result of the amended design.	YES
	g. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	As detailed throughout this report the proposal is considered to provide satisfactory amenity and appropriate character to the locality.	YES
	h. Embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	Neighbour amenity is considered to be maintained, to building form, provision of landscaping, and location of windows and balconies.	YES

General Principles	Applies	Comments	Complies
CL41 Brothels	NO	No Comment	Not Applicable
CL42 Construction Sites	YES	Appropriate standard conditions were provided in the original application that adequately addresses the construction requirements associated with the building works proposed on the site.	YES
CL43 Noise	YES	The proposed development is for residential use which is not considered to significantly impact upon neighbouring properties with regard to noise. Accordingly, the proposal is considered to be satisfactory with regard to noise impact.	YES
CL44 Pollutants	NO	No Comment	Not Applicable

General Principles	Applies	Comments	Complies
CL45 Hazardous Uses	NO	No Comment	Not Applicable
CL46 Radiation Emission Levels	NO	No Comment	Not Applicable
CL47 Flood Affected Land	NO	The subject site is not flood affected	Not Applicable
CL48 Potentially Contaminated Land	YES	Based on the current and previous land uses it is considered that there is no contamination issue. (Refer to SEPP 55 heading previously for further information).	YES
CL49 Remediation of Contaminated Land	NO	No Comment	Not Applicable
CL49a Acid Sulfate Soils	NO	No Comment	Not Applicable
CL50 Safety & Security	YES	The proposed development was considered satisfactory with regard to the provisions. A condition was imposed in the original consent requiring security lighting to be installed.	YES
CL51 Front Fences and Walls	NO	No Comment	Not Applicable
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	YES	This general principle requires development adjacent to public open space to complement the landscape character and public use and enjoyment of that land. The proposed development (as amended) will not impact on the nearby reserve or parkland.	YES
CL53 Signs	NO	No Comment	Not Applicable
CL54 Provision and Location of Utility Services	YES	The site is satisfactorily serviced with utility services including the provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage. The development (as amended) meets the requirements of Clause 54 of WLEP2000.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	Not Applicable
CL56 Retaining Unique Environmental Features on Site	YES	The proposed amended development will not encroach into areas of rock outcrops or result in the removal of significant vegetation and is satisfactory in addressing the general principle.	YES
CL57 Development on Sloping Land	YES	The proposed modification does not result in any further excavation of the site.	YES
CL58 Protection of Existing Flora	YES	The development (as modified) will not compromise the environmental values of the area. The proposed amended development will not encroach into areas of rock outcrops or result in the removal of any significant vegetation. Further, Council's Natural Environment section and Landscape Officers have reviewed the proposal and have raised no objection to the proposal. It is considered that the proposal satisfies the requirements of the General Principle.	YES
CL59 Koala Habitat Protection	YES	The site is not known to contain any koala habitat.	YES
CL60 Watercourses & Aquatic Habitats	YES	The proposed modification will have no impact any watercourses.	YES
CL61 Views	YES	Clause 61 states that development is to allow for the reasonable sharing of views. The height and scale of the building form is not being altered as result of the proposed modification and therefore the impact on views	YES

General Principles	Applies	Comments	Complies
		<p>will not be adversely affected as result of the changes proposed as part of this application.</p> <p>The proposed modification is considered to be satisfactory in relation Clause 61.</p>	
CL62 Access to sunlight	YES	<p>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%.</p> <p>The proposed modifications will not significantly alter the solar access received by the adjoining properties.</p>	YES
CL63 Landscaped Open Space	YES	<p>The landscaped open space provision for the site complies with the numerical requirements contained within Warringah LEP 2000. In addition, the proposal retains the existing established gardens and trees on site and provides additional landscaping to screening the retaining walls. Accordingly, the proposal is considered satisfactory in terms of landscaped open space.</p>	YES
CL63A Rear Building Setback	NO	No Comment	Not Applicable
CL64 Private open space	YES	<p>In accordance with Clause 64 Private open space of WLEP 2000, private open space is not to be located within the street setback area unless the site is a corner allotment or the applicable Locality Statement provides otherwise.</p> <p>The private open space provided for each residential development is satisfactory in addressing the requirement of this Clause.</p>	YES
CL65 Privacy	YES	<p>The Development does not cause unreasonable direct overlooking of habitable rooms and principal private open spaces of adjoining dwellings and is satisfactory in addressing the General Principle.</p>	YES
CL66 Building bulk	YES	<p>This general principle seeks to ensure that development does not dominate the streetscape by virtue of its bulk or is inconsistent with the scale of nearby development.</p> <p>The modified development is satisfactory in relation to the built form controls of the B6 War Veterans locality Statement and as such, is not excessive in size, bulk and scale. The architectural design of the modified development is acceptable and appropriately fits in with the existing design of dwellings within the village. The development satisfies Clause 66 of WLEP2000.</p>	YES
CL67 Roofs	YES	<p>No significant changes are proposed to the roof form.</p>	YES
CL68 Conservation of Energy and Water	YES	<p>Amended BASIX certificates for the residential component of the development have been submitted. The certificates confirm that the</p>	YES

General Principles	Applies	Comments	Complies
		proposed development meets the NSW government's requirements for sustainability and is therefore satisfactory with the requirement of this Clause.	
CL69 Accessibility – Public and Semi-Public Buildings	YES	The proposed development (as amended) has been designed to allow for continuous access for older people or people with a disability through the development. The proposal has been designed to comply with the relevant Australian Standards.	YES
CL70 Site facilities	YES	The site facilities of approved development were found to be acceptable in the original consent. These facilities will not be altered as result of the proposed modification. Therefore the proposed modification is satisfactory in this regard.	YES
CL71 Parking facilities (visual impact)	YES	No change proposed. The proposed modifications will not increase the visual impact of the parking facilities.	YES
CL72 Traffic access & safety	YES	<p>The proposed vehicle access driveway into the Village Centre is proposed to be access from Colooli Road, which is an internal road within the Village, and is proposed to be upgraded as part of the development.</p> <p>The internal road design and parking arrangement satisfy AS 2890.1. In addition, the design of the road will minimise traffic hazards, avoid traffic queuing and traffic and pedestrian conflict.</p> <p>The proposed development is satisfactory with regard to this Clause.</p>	YES
CL73 On-site Loading and Unloading	NO	The War Veteran's Village contains collective designated locations for service vehicles, delivery and emergency services. These services are satisfactory in the requirement of this Clause for the proposed development.	Not Applicable
CL74 Provision of Carparking	YES	<p>Clause 74 stipulates that adequate off-street car parking is to be provided to serve a development and that the application must be assessed against the provisions of Schedule 17.</p> <p>Assessment under the provisions of Schedule 17</p> <p>The provisions of Schedule 17 provides car parking requirements for 'older people or people with a disability' to be provided with 0.5 spaces per bedroom and 1 visitor space per 5 dwellings when the number of dwellings onsite exceeds 8. in addition Schedule 17 requires the following parking rate for the following uses:</p> <ul style="list-style-type: none"> • Office – 1 space per 40m²; • Place of worship – comparison must be drawn with similar development. • Community facility - – comparison must be drawn with similar development. • Recreation facility - 3 space per court. <p>The proposed modification will require the following parking rate:</p>	YES

General Principles	Applies	Comments	Complies
		<p>Residential Development –</p> <p>22 x 3 bedroom (2 bedroom plus a study) = 33 spaces Visitor parking = 4.5 spaces</p> <p>Office (247m²) = 6.2 spaces</p> <p>Total parking required = 37 spaces.</p> <p>The proposed development provides for a total of 75 spaces within the precinct and therefore exceeds the numerical requirements detailed under Schedule 17.</p> <p>In terms of the other approved uses (i.e. the recreation the community facilities, the chapel and museums) all be used by the residents of the Village and not open to the general public and therefore, it is inappropriate to apply a separate parking requirement for these uses. Appropriate conditions within the original consent to ensure these are utilised by the residents of the Village and not the general public.</p> <p>The proposed development is therefore satisfactory with regards to this clause</p>	
CL75 Design of Carparking Areas	YES	Car parking area (as amended) is designed to adequately design in accordance with AS1428 and AS2890. Conditions are recommended to ensure construction is completed to the relevant standards	YES
CL76 Management of Stormwater	YES	The application has been assessed by Council's Development Engineers and considered appropriate in relation to the management of stormwater.	YES
CL77 Landfill	NO	No Comment	Not Applicable
CL78 Erosion & Sedimentation	YES	Appropriate conditions were included on the original consent in regards to the requirement of this Clause.	YES
CL79 Heritage Control	YES	<p>The War Veterans site contains a number of heritage items, with local heritage significance.</p> <p>The proposed works will not result in any adverse or unreasonable impact on the heritage significance of the site, given that the items identified as bearing heritage significance are a considerable distance from the location of the proposed works.</p> <p>Further to the above, the amended application was referred to Council's Heritage officer who has raised no objection or any additional conditions (as detailed in the referral section of this report).</p>	YES
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	The subject site is not located within the vicinity of any known or potential Aboriginal sites.	Not Applicable
CL81 Notice to Heritage Council	NO	No Comment	Not Applicable
CL82 Development in the Vicinity of Heritage	YES	Clause 82 of the LEP provides that Development in the vicinity of heritage items or	YES

General Principles	Applies	Comments	Complies
Items		<p>heritage conservation areas is to complement the character of the heritage item or buildings of heritage significance within that area in terms of its architectural style, scale, setback, siting, external materials, finishes, colours and setting. Significant views to and from heritage items or heritage conservation areas, are not to be adversely affected.</p> <p>The subject site is located within the vicinity of a locally listed item of heritage significance as noted above in Clause 79.</p> <p>The modified development is not considered to have any adverse impact upon the existing items of heritage significance for the following reasons:</p> <ul style="list-style-type: none"> • 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; • The existing visual setting is considered to be maintained. <p>Further to the above, the amended application was referred to Council's Heritage officer who has raised no objection or any additional conditions.</p> <p>Accordingly, the proposal is considered to be satisfactory with regard to the requirements of the General Principle.</p>	
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	Not Applicable

SCHEDULES

Schedule 8 - Site analysis

Site Analysis	Adequate site analysis documentation has been submitted with this application.
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Schedule 15 – Statement of Environmental Effect

Statement of Environmental Effect	Schedule 15 is not applicable to the modified application as there are no new Category 3 Land uses proposed.
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Schedule 16 – Principles and standards for housing for older people or people with disabilities

Housing for older people or people with disabilities	Refer to the General Principles of Development Control (Clause 40) of this report for assessment.
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Schedule 17 – Car parking Provision

Car parking Provision	Refer to Clause 74 General Principles of Development Control WLEP 2000 of this report for assessment.
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POLICY CONTROLS

Warringah Section 94A Development Contribution Plan 2008

The proposal is for the modification to an approved development under DA2010/0166. Accordingly Section 94A contribution plan does not apply to this application

MEDIATION

Mediation was not requested for this development application.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C in terms of Section 96 (2) of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy No. (Housing for Seniors or People with a Disability) 2004, State Environmental Planning Policy No 65 Design Quality of Residential Flat Development, Warringah Local Environmental Plan 2000, Draft Warringah Local Environmental Plan 2009, Warringah Development Control Plan and the relevant codes and policies of Council.

The modification proposed under this application seeks to rationalise the approved scheme for construction without compromising the original design concept. The modifications proposed are generally consistent with the relevant planning controls which apply to the site. Whilst some minor changes to the stepping of the facade result from the reconfiguration of internal apartment layouts, the overall built form and height of the approved development remains substantially unchanged.

There is no change to the overall consistency of the scheme as per the desired future character set out in B6 locality statement. The overall use of the building, being seniors housing, remains unchanged, and remains permissible as Category 1 development within this localities. The Category 3 land use (i.e. the offices) within the Village Centre was approved in the original consent remains unchanged with the exception of the removal of motel style units. In this regard as the application is a modification of consent, an independent public hearing described in clause 15 of the WLEP 2000 is not required as the uses have already been '*granted consent*'.

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 (SECTION 96 APPROVAL)

That the Section 96 (2) Application No. Mod2010/0283 to modify Development Consent No.DA2010/0166 granted by the Joint Regional Planning Panel for the demolition of existing structures and construction of a building that consists of Seniors Housing, Communal facilities, staff offices and modification to the Montgomery Centre and Bowling Club (comprising the Village Centre within the RSL War Veterans Retirement Village) at Lot 1 DP 803645 Lot 1/ 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:

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 in red and by other conditions of consent:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1.01–DA1.18 (issue A)	8 February 2010	Young Metcalf Architects

Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
C-301-C-312 (issue C)	October 2009	Warren Smith & Partners Pty Ltd

As modified by the Section 96 application Mod2010/0238 received by Council on 12 November 2010, and endorsed with Council's approval stamp;

Architectural Plans - Endorsed with Council's stamp			
Drawing No.	Dated	Issue	Prepared by
DA1.01	October 2010	B	Young Metcalf Architects
DA1.03	October 2010	B	Humel Architects
DA1.05	November 2010	B	Humel Architects
DA1.06	November 2010	B	Humel Architects
DA1.07	November 2010	B	Humel Architects
DA1.08	November 2010	B	Humel Architects
DA1.09	November 2010	B	Humel Architects
DA1.10	November 2010	B	Humel Architects
DA1.11	November 2010	B	Humel Architects
DA1.12	November 2010	B	Humel Architects
DA1.13	November 2010	B	Humel Architects
DA1.15	October 2010	B	Young Metcalf Architects
DA1.16	October 2010	B	Young Metcalf Architects

Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared by
C-301-C-312 (issue E)	October 2010	Warren Smith & Partners Pty Ltd

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

The development is to be undertaken generally in accordance with the following:

Landscape Plans - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
LA01 –LA02 (issue A)	October 2010	Taylor Brammer

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

B. Additional condition No. 11(A) – to read:

11 (A). Public Road

The intersection of Stack Street and Coolooli Road is to be designed as a T junction and the radius of the eastern kerb return should not exceed 10m.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the safety of public Road.

C. Modify Conditions Nos. 35 - 42 – NSW Rural Fire Services conditions to read as follows:

CONDITIONS PROVIDED BY THE NSW RURAL FIRE SERVICES

35. Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the property to the west of the proposed buildings for a distance of 70 metres, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's Document 'Standards for asset protection zones'.
2. At the commencement of building works and in perpetuity the property around the existing buildings that are situated adjacent to any area of unmanaged vegetation, for a minimum distance of 10 metres shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Reason: To ensure compliance with the requirement of NSW Rural Fire Service.

36. Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006',

Reason: To ensure compliance with the requirement of NSW Rural Fire Service.

37. Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

4. Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Reason: To ensure compliance with the requirement of NSW Rural Fire Service.

38. Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

5. An emergency/evacuation plan is to be prepared for the entire facility, in accordance with the emergency management provisions within 4.2.7 of 'Planning for Bush Fire Protection 2006' and consistent with the NSW Rural Fire Service 'Guidelines for the Preparation of Emergency / Evacuation Plan'. The prepared plan is for implementation by the occupants in the event of a bush fire emergency. If a plan already exists, it needs to be updated to include the proposed development.

***Reason:** To ensure compliance with the requirement of NSW Rural Fire Service.*

39. Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

6. New construction to the northern and eastern elevations of the proposed Village Centre shall comply with section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire – prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
7. New construction to the southern and western elevations of the proposed Village Centre shall comply with section 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire – prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
8. New construction to the proposed Montgomery Centre, Chapel, Village Centre and War Museum shall comply with Section 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire – prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
9. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any material used shall have a Flammability index of no greater than 5 when tested in accordance with Australia Standard AS 1530.2-1993 'Methods for Fire Tests on Building Materials, Components and Structural – test for Flammability of Materials'.
10. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building.
11. Structure and shade materials in the inner protection area shall be non-combustible or have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1993 'Methods for Fire Tests on Building Materials, Components and Structures – Test for Flammability of Materials'.

40. Landscaping

Landscaping site is to comply with the principles of Appendix 5 of Planning for Bush Fire protection 2006'.

Reason: To ensure compliance with the requirement of NSW Rural Fire Service

41. General Advice - consent authority to note

Riparian Areas

The asset protection zones (APZ) required as part of the development will encompass land that will be located within a riparian corridor/area. Ecological management of the riparian area may conflict with that required for the APZ's. in this regard the applicant will need to liaise with the relevant Government Department to identify their management requirements do not conflict with those required for the APZ's by the NSW Rural Fire Service.

Reason: To ensure compliance with the requirement of NSW Rural Fire Service.