Warringah Council

3.4 Lot 1 Veterans Parade, Wheeler Heights – Section 96 (AA) – Construction of Self-Care Units as an Extension of the Existing RSL War Veterans Retirement Village

S96AA APPLICATION TO MODIFY A DEVELOPMENT CONSENT ASSESSMENT REPORT

Assessment Officer:	Lashta Haidari
Address / Property Description:	Lot 1, DP 774980, Lot 1, DP 803645, Lot 2026, DP 752038, Lot 2611, DP 752038, Lot 573, DP 752038, Lot 2641, DP 752038, Lot 1/ Veterans Parade, Wheeler Heights
Description:	Section 96 (AA) application to modify Development consent 6000/6478 granted by the Land and Environment Court for the construction 130 x 2 bedrooms self -care units as an extension of the existing RSL War Veterans Retirement Village.
Development Application No:	Mod2010/0180
Approved Development:	DA6000/6478
Application Lodged:	29/07/2010
Plans Reference:	DA0 – DA20 (Rev 96AA) prepared by Humel Architect Pty Ltd- Dated July 2010.
Amended Plans:	No
Applicant:	RSL Lifecare Limited
Owner:	RSL Lifecare Limited
Locality:	B6 War Veterans
Category:	Category 1 (Housing for older people or people with a disability)
Draft WLEP 2009 Permissible or Prohibited Land use:	Permissible
Variations to Controls	Not applicable to this application
Referred to ADP:	YES “more than 2 unresolved objections”
Referred to WDAP:	NO
Land and Environment Court Action:	NO

SUMMARY

Submissions:	A total of four (4) submissions have been received.
Submission Issues:	The NSW sea rise level policy; intrusion into the cross hatched areas; Intention of developers to use the land for alternative use; adverse environmental impact; and alteration to the existing emergency access.
Assessment Issues:	Section 96 (AA) of the EP & A Act 1979, development within cross hatched area, DFC for the B6 locality, impact on vegetation, provision for car parking (Schedule 17), and residents issue (public notification).
Recommendation:	Section 96 Approval
Attachments:	None

LOCALITY PLAN (not to scale)

Subject Site:	Lot 1, DP 774980, Lot 1, DP 803645, Lot 2026, DP 752038, Lot 2611, DP 752038, Lot 573, DP 752038, & Lot 2641, DP 752038, Lot 1/ Veterans Parade, Wheeler Heights.
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 170 adjoining land owners and occupiers and persons who made a submission to the original development application for a period of 30 calendar days commencing on 13/8/2010 and being finalised on 14/09/2010. Furthermore, the application has been advertised within the Manly Daily on 11/08/2010 and a notice was placed upon the site.

SITE DESCRIPTION

The subject site is legally defined as Lot 1, DP 774980, Lot 1, DP 803645, Lot 2026, DP 752038, Lot 2611, DP 752038, Lot 573, DP 752038, & Lot 2641, DP 752038, Lot 1/ Veterans Parade, Wheeler Heights.

The site (subject of this modification), is part of a large area being approximately 44 ha in area and is generally bounded by Veterans Parade to the east, Colooli Road and Jamieson Park to the north, Lantana Avenue and James Wheeler Place to the south and the Narrabeen Lagoon foreshores to the west. The existing War Veterans Village occupies part of the eastern and

northern part of the War Veterans land. The site contains a range of aged care and War Veterans accommodation for a total of 1200 residents, including self care dwellings, assisted care hostels and nursing homes.

The War Veterans land contains remnant bushland and some disturbed areas with some weed infestation and is classed by the bush fire prone land map (certified under Section 146 of the EPA Act 1979 as "Bush Fire Prone Land - Vegetation Buffer).

Part of portion 2611, which comprises approximately 4ha of a total of 11ha of undeveloped land at the western end of the War Veterans Land, received development consent from the Land and Environment Court on 28 May 1998. This development known as the Greenhaven development is divided into 3 stages. The current modification application before Council only relates to stage 2 and 3 of approved development. The subject site is visually and topographically separated from the existing village, which is elevated above it.

Construction of the approved development initially commenced with the construction of an access road extension off Snake Gully Drive. Construction of stage 1 comprising 41 units in the south – west corner of the site has been completed. A S96 modification relating to a stage 1 was approved by Council on 5 October 2006 to provide for a reduction in the number of units from 43 to 41, with an increased number of 3 bedroom units.

Surrounding development outside the Village is characterised by residential dwellings to the east and south, bushland within Jamieson Park to the north and northwest.

Approved Development Application

Development Application DA6000/6478 was lodged with Council in 1996 and was granted consent by the Land and Environment Court on 28th May 1998 (proceedings 10566 of 1996). The approved development was for the construction 130 x 2 bedroom self – care units as an extension of the existing RSL War Veterans Retirement Village, located off Lantana Ave. The works approved also included a community building, road access and stormwater drainage and associated infrastructure.

Previous Approved Modification.

Development consent No. 6000/6478 has been modified on the following occasions:

6000/6478 Mod 1

a) Description of Application

Amendments to the conditions of consent in relation to the road access and stormwater management arrangement.

b) Determination

The Land and Environment Court granted approval for the proposed modifications on 17 September 2003.

6000/6478 MOD2

c) Description of Application

Reduction in the number of self-care units in stage 1 of the development, changes to levels, reduction of building footprints, modification to roads and driveways and additional retaining walls.

d) Determination

Council granted approval to the modifications on 5 October 2006.

6000/6478 MOD3

e) Description of Application

f) **Modification to the design and footprint of the approved community building to make the individual buildings into a single multi-purpose community centre, with a total floor area of approximately 460m^2.**

g) Determination

Council granted approval to the modifications on 28 May 2007.

Mod2008/0158

h) Description of Application

Reduction in the number of self-care units in stage 2/3 of the development, changes to levels, reduction of building footprints, modification to roads and driveways and additional retaining walls.

i) Determination

Council granted approval to the modifications on 18 March 2010.

The applicant has indicated that following further consideration of the current occupants needs based on the occupation of stage 1 units, it has been decided not to proceed with this modified application. The applicant has indicated this modified application will be surrendered following Council approval of the subject modification application.

LAND AND ENVIRONMENT COURT

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

PROPOSAL IN DETAIL

The proposed modified application seeks approval to increase the number of units in stage 2/3 (as originally approved) from 87 units to 89 units, re-instating the total number of units to 130, as originally approved. The proposed modification also seeks to reconfigure floor space and layouts of stage 2/3 units (combined as Stage 2) to provide a more modern design and a 3rd bedroom/study to some of the units. Of the 89 units now proposed in the modified scheme, 14 are to be a 3 bedroom units and 75 will remain as 2 bedroom units, but with larger living rooms that includes an "alcove" area capable of being used as a multi –purpose space. The proposed modification also includes 34 additional visitor car spaces.

The specific details of the proposed development are as follows:

Details of the proposal	Approved by the LEC	Proposed	Extent of Variation
Total number of dwellings	130	130	Nil
Floor space within the units	12,350m²	14,161m²	1,798m² of additional floor space (i.e. 14.5% increase)
Total number of bedrooms	260	276	16 additional bedrooms (6.15% increase)
Mix of 2 bedroom and 3 bedroom units	130 x 2 bedroom	114 x 2 bedroom 16 x 3 bedrooms	Ratio of 2 bedroom units reduced from 100% to 87.7%.
Landscape open space	24,700m²	23,202m²	1,798m² reduction in area (7.2% decrease)
Cross Hatched area	135m² (encroachment)	51m²	85m² reduction (62% decrease)

Number of Units and Changes to Floor Plans

The proposed modification seeks approval for 89 units in stages 2/3, to compensate for a reduction of 2 units in Stage 1 as modified and constructed. The applicant has indicated that the proposed modification was a direct result of a review carried out by the RSL in relation to the unit designs in the approved plans. The review indicated that the approved unit designs did not offer the best level of amenity, presented a bulky roof form and were somewhat dated in appearance. The

approved plans did not contain design plans in relation to proposed retaining walls and associated landscaping.

Modify levels

Barry Hunt & Associates Pty Ltd has carried out a full survey of the site levels and boundaries, which has revealed significant discrepancies (up to 800mm) between the original survey (based on aerial photographs) and data and the current survey data. The modification application has amended the general building levels to reflect the true site levels.

Modifications have also been made to the building, road and driveway levels in order to comply with the consent condition requiring that access gradients comply with disabled access standards. The building levels have also been modified to suit the roadway gradients to comply with the original LEC consent, which stated that: *"no roadway is to have a steeper gradient than 1 in 10".*

Errors in levels on the approved plans resulted in some units having floor levels below the 1:100 year flood level. The following table (as provided within the SEE) summaries the changes to floor and roof ridge levels:

Block No:	DA Approved Floor Level G – Ground F – First	Proposed Floor Level G – Ground F - First	DA Approved Ridge Level R - Ridge	Proposed Ridge Level R -Ridge	Change to max. dwelling height (to ridge)
Block A	G 6.80 F 9.60	G 8.1 F 11.1	15.579	16.477	+898mm
Block B	G 4.70 F 7.50	G 5.05 F 8.05	13479	13.387	-92mm
Block C	G 4.7 F 6.9	G 5.0 F 8.0	12.879	13.377	+498mm
Block D	G 6.0 F 8.8	G5.8 F8.8	14.179	14.177	-6.02mm
Block E	G 6.4	G 7.2	12.179	12.577	+398mm
Block F	G 5.5	G 5.8	11.279	11.177	-102mm
Block G	G 4.4	G 5.15	10.179	10.527	+348mm
Block H	G 4.5	G 5.4	10.279	10.777	+498mm
Block J	G 5.0	G 5.7	10.779	11.077	+298mm
Block K	G 5.5	G 5.8	11.279	11.177	-102mm
Block L	G 6.0	G 6.6	11.779	11.997	+198mm
Block M	G 6.5	G 7.25	12.279	12.627	+348mm
Block N	G 7.0 F 9.8	G 6.8 F 9.8	15.779	15.177	-602mm

Note: All Levels are to AHD.

Modified Roadways, Driveways and Entry gradients

The original development consent included a condition that required all internal roadways, garage entry driveways and pedestrian entry walkways to have a maximum 1 in 10 gradient. Internal roadways, garage entry driveways and pedestrian entry walkways have been revised in order to comply with a maximum 1 in 10 grade through the site.

In addition as a result of the changes to levels on site, minor adjustments to the sitting of buildings, retaining walls and driveways are identified on the plans submitted as part of the S96 application. The internal road network is substantially within the route shown in the approved plans, but with more gentle curves introduced at some changes of road direction and intersections. Road levels have been adjusted slightly to achieve a 1 in 10 gradient, in some cases to suit the change in levels and comply with a maximum 1 in 10 gradient.

Retaining walls

No details of retaining walls were provided in the original DA plans. As part of the new gradients and levels additional retaining walls are proposed. The revised design allows for retaining walls to be landscaped and used to assist in defining public and private open spaces.

Visitors parking

Visitor parking was not adequately distributed under the original proposal. The approved development application showed 8 visitor spaces were located at the lowest level of the site in the northwestern corner (in stage 1) and no visitors parking were provided for stage 2 development. The modification application proposes to provide for a total of 34 visitors spaces distributed within stage 2.

Internal unit design and changes to roof profile

The internal layouts of units have been modified in order to provide for an improved level of amenity, which includes a larger dining area, improved design for access and mobility and improved access to sunlight, views, and privacy. These improvements resulted in an approximately 20m² increases in floor area of each unit and as noted previously there is no overall increase in the approved footprint.

The approved plans provided for a high skillion roof design with no eaves and a higher wall area in the front elevation. A new roof design is proposed incorporating eaves into a pitched roof form with centralised high level windows.

Ancillary facilities

Each block is provided with a separate clothes drying and bin storage facility within easy walking distance of the units within the block. A total of 3 bus stops are provided within stage 2 for the Retirement Village internal bus service.

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 (Infrastructure) 2007
e) Warringah Local Environment Plan 2000
f) Warringah Development Control Plan
g) Warringah Section 94A Development Contributions Plan
h) Draft Warringah Local Environmental Plan 200

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 the general terms of approval.

NSW office of Water

The NSW office of water has provided comments as the integrated authority (as defined by Section 91 of the EPA Act 1979) and has raised no objections subject to the general terms of approval.

Comments from Internal Authorities

Department	Comments
Natural Environment	Council's Natural Environment sections have reviewed the proposal and have raised no objection to the proposal.
Development Engineer	Council's Development Engineers has reviewed the proposal and has raised no objection to the proposed development.
Landscape Officer	Council's Landscape officer has reviewed the proposal and has raised no objection to the proposed development.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject Development Application has been publicly exhibited in accordance with the Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan. As such, the application has been notified to 170 adjoining property owners and occupiers (including these who made submissions in the original DA) and was advertised within the Manly Daily on 11/8/2010 with a sign erected onsite.

As a result of the public exhibition process council is in receipt of four (4) submissions from the following respondents:

Submission Received	Address
Save Jamieson Park Committee	6 Nioka Road, Narrabeen
J.Vrbancich	32 James Wheeler Place, Wheeler place
P.Rand	30 James Wheeler Place, Wheeler Heights
K. Jury	James Wheeler Place

The issues raised in the submission are addressed as follows:

This modification does not take into account the NSW sea rise level policy.

The flood study required by Council for the original application satisfied the requirement for flooding at the time. At the time of writing this report Council is not in possession of scientific evidence that indicates that there is any risk to the development that could be attributed to sea level raise.

Further to the above, the original approval under DA6000/6478 included flood impact conditions of consent 6.1 to 6.5, which are not being altered as part of this modified application. The modification was also referred to Council's Natural Environment section who raised no objection to the proposed modification. Accordingly, the issue raised in this regard does not warrant the refusal of the application.

Unacceptable intrusion of structures into the cross hatched areas

This issue has been addressed in detail under the DFC statement of this report. In summary, the applicant has indicated that the proposal currently before Council is not proposing any works (other the areas used for passive recreational purposes) within the cross-hatched area. It is recommended that a condition be included in the modified consent to enure that no works extend to the cross hatched area.

This issue is adequately addressed by way of condition and does not warrant the refusal of the application.

Intention of developers to use the land for an alternative use other than Seniors Living given the number of modification proposed by the developer.

There are no limits on the number of times a Development Consent can be modified provided it meets the requirement of Section 96 under the EP and A Act 1979. The proposed modification proposes no changes to the approved use of the development and this issue does not form part of this application as it was originally dealt with under the Court consent.

Adverse environmental impact

The proposed modification will have no adverse impact on the vegetation or the adjoining bushland. The application was also reviewed by Council's Natural Environment section, who raised no objection to the development on environmental grounds. This issue therefore does not warrant the refusal of the application.

Cannot support any changes to the emergency access road from James wheeler Place.

The proposed development does not propose any changes to the existing emergency access road from James Wheeler Place. Accordingly, the concern raised does not warrant the refusal of the application

SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The subject application to modify Development Consent No. DA6000/6478 is assessed pursuant to Section 96(AA) of the Environmental Planning and Assessment Act 1979. Section 96AA of the Environmental Planning and Assessment Act 1979, enables a consent authority to modify a development consent granted by the Court upon application being sought by the applicant or any other person entitled to the act on the consent, provided that the consent authority as part of the assessment process takes into consideration the following matters:

Is the proposed development as modified substantially the same development as originally approved by Council?

The development as modified is considered to be substantially the same development as the development for which consent was originally granted. The proposed changes are minor in nature and generally relate to correcting site levels and from the resolution of the design of the services which are required to be provided throughout the development and a consideration of the practicalities of building the approved design.

The changes proposed do not alter the intensity or scale of the approved development. The layout of buildings and access roads will remain substantially the same as approved, with a with a minor increase in a floor space (i.e. an increase of 20m² per unit) for the approved 89 units with a similar overall building footprint. Changes to floor levels are modest. The level changes arise from minor inaccuracies of the levels in the approved plans and the need to achieve a maximum 1 in 10 gradient.

The proposed modification will not change the essential features of the development as approved, it will still comprise a retirement village generally as approved, with the same total number of units as per the approved plans. The total number of bedrooms is marginally increased from 260 to 276 bedrooms (i.e. 6.15% overall increase), which has resulted in a minor reduction in the overall landscaped area (i.e. 7.2%), however, the overall changes result in no material changes with the overall form and character of the approved development.

The overall siting of buildings and roads generally accords with the originally approved plans. The proposed building footprint, excluding ancillary facilities such as clothes drying and bin storage, does not encroach beyond the approved development footprint. Importantly there is no increased encroachment into the "cross-hatched" area.

Having regard to the nature of the proposed amendments to the approved plans, it is concluded that the proposal as modified is substantially the same development as approved.

Whether the application requires the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies?

This modification application concerns alterations to an approved seniors living development and does not require the concurrence of the relevant Minister. In terms of the other public authorities, the application was referred to the NSW Rural Fire Services and the NSW Office of Water for comments as integrated authorities (as defined by Section 91 of the EPA Act 1979). Both authorities have raised no objections subject to the general terms of approval.

Whether any submissions were made in respect of the proposed modification

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. A total of four (4) submissions were received as a result of the notification process. The issues raised in the submissions are addressed in the previous section of this report. In summary, the issues raised in the submissions do not warrant the refusal of the application.

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	See discussion on "WLEP 2000" and the relevant SEPP's 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	All relevant provisions of the EP&A Regulation 2000 have been taken into consideration during the assessment of the development application and this modification application.
Section 79C (1) (b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) *The proposed modifications will not result in any adverse impacts on the natural 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.* (ii) The proposed modifications will not have a detrimental social impact on the locality as only minor internal and external changes are proposed. (iii) The proposed modifications will not have a detrimental economic impact on the locality considering no changes are proposed to the use of the development.
Section 79C (1) (c) – The suitability of the site for the development	The suitability of the site for the proposed development has been recognised by the issue of the development consent in 1998. The development site forms an extension of the existing retirement village facility and is capable of being

Section 79C 'Matters for Consideration'	Comments
	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.
Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs	In regards to public submissions refer to the discussion on "Notification & Submissions" within this report.
Section 79C (1) (e) – The public interest	The proposed modifications are 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.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS:

Draft Warringah Local Environmental Plan 2009 (Draft WLEP 2009)

Definition: Seniors Housing

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.

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) come into effect in 1 October 2005. The development was approved in 1998 and therefore was not effected by the requirement of this SEPP. Accordingly, the requirement of this SEPP is not applicable to the proposed modification.

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

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

SEPP (Infrastructure) 2007

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

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

The proposed development does not involve any of the works described in Clause 45(1). The application was referred to Energy Australia, however no comments were received at the time of writing this report.

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 original development as approved by the Land and Environment Court in 1998 was permissible under the "Special Uses War Veterans Homes" zoning pursuant to the now repealed Warringah Local Environment Plan 1985.

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

Clause 12 of WLEP 2000 provides that the consent authority is to consider the development against the localities Desired Future Character Statement. An analysis of the proposed modification to the approved plans for Stages 2/3 now to be developed together as stage 2 against the relevant component of the DFC 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

The proposed modification does not seek to change the use of the approved development 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.

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 proposed modification to the height of the buildings will respond to the prominence of this locality by keeping buildings below the predominant tree-line and consistent with the 8.5m height control which applies to the adjoining localities. The scale and height of the development (as amended) will be consistent with the adjacent established residential development.

The buildings (as modified) are considered to provide good articulation breaking up the building mass. The proposed modification will result in a reduced visual impact resulting from a reduced building footprint. In addition, the modification application allows for an internal unit design, which offers, improved amenity and accessibility for the elderly and disabled persons.

The modified building works are not readily visible from the Narrabeen Lake viewing catchment and the modified development will be 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 stage 2 does not directly adjoin Veteran Parade or Lantana Ave and therefore this component of the DFC is not applicable to the proposed development.

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.

The proposed modifications are 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 and is satisfactory to Council's Natural Environment section in relation to bushland/catchment impacts. The approved pathway to the south and east of Stage 2 will be retained along its approved route but partly in the form of a boardwalk where it extends over the stormwater quality treatment area, however Council's Development Engineer has reviewed the proposal and has confirmed that amended work will not disrupt existing stormwater retention. 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. 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.

As indicated previously, the original approval was pre Warringah LEP 2000. WLEP 2000 identifies a "Cross hatched" area over a substantial portion of the site.
The plans submitted as part of the S96 applications indicate that parts of the building footprint, including roads extend into the cross hatched area. The applicant has however indicated that the encroachments as shown on the plans are already approved and that no buildings (including the ancillary structures) or roadways proposed in the modified plans extend beyond the boundaries of the approved building and road footprints.

The applicant has also indicated that the modified plans only seek approval for passive recreational areas that adjoins some of the units to extend into the cross hatched area. The DFC states that passive recreational facilities are permissible in the cross hatched area. Accordingly, it is recommended that should this application be worthy of approval that a special condition be included in the recommendation to state that no new works (other then passive recreational facilities and works that have already been approved as part of the original application) are to encroach into the cross hatched area.

Subject to the above condition, the proposed modification will be consistent with this component of the DFC.

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	Proposed	Compliance
Landscaping	40%	>40%	YES

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	N/A

CL40 Housing for older people or people with disabilities

It is noted that the existing approval allowed for schematic plans only with no dimensions and specifications to units. As part of this application the internal layout of the units has been modified in order to provide for an improved level of amenity. These improvements resulted in a approximately 20m² increase in floor area per unit. Accordingly an assessment pursuant to Clause 40 is required.

Clause 40 of WLEP 2000 provides that housing for older people of 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 modification allows for 3 bus stops evenly distributed within stage 2 for the Retirement Village internal bus service. In addition the proposed development is located within 400m of: • 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.	YES

Control	Required	Proposed	Compliance
		• An on site clinic where a number of local doctors and health professionals are also available to residents. • A bus stop that provides access to major regional shopping, commercial and recreational facilities including Warringah Mall, Manly, the City and Chatswood. The village has a fleet of buses, which provides services to local amenities on a regular timetable.	
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	<u>Site Gradient</u> 100% of dwelling to have continuous path of travel to public road, internal road or driveway <u>Road Access</u> 10% of dwellings to have continuous path of travel to public road <u>Common Areas</u> Access to be provided to all common areas and facilities <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	Internal roadways, garage entry driveways and pedestrian entry walkways have been revised in order to comply with a max. 1 in 10 grades, as per the original consent. 100% of the dwellings have wheelchair access by a continuous path of travel to a public road. Access is provided from all dwellings to an adjoining public road by a continuous path of travel. The continuous path of travel extends to the common areas of the site. The continuous path of travel extends to the common areas of the site.	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.	NA
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
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	Spaces are to be not less than	Most of the garages provide	YES

Control	Required	Proposed	Compliance
accommodation	6m x 3.2m and garages are to have an internal clearance of 2.5m and must have a power operated roller door.	dimensions of 3.4m x 5.8m. It is noted that the approved plans provide the same dimensions. Accordingly the proposed works do not alter the existing approved parking facilities on site. Roller doors provided.	
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 an amended condition of 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.	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.	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.	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.	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.	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.	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.	YES (subject to conditions)
13. Access to kitchen, main bedroom, bathroom & toilet	Kitchen, main bedroom, bathroom and toilet must be located on the ground floor, etc (see schedule 16).	The units are all single level.	YES
14. Laundry	A self contained dwelling must have a laundry that has provision for the installation of an automatic washing machine, and	Compliance with this standard is incorporated as a condition of consent.	YES (subject to conditions)

Control	Required	Proposed	Compliance
	dryers etc (see schedule 16)		
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.	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.	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.	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.	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.	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 proposed development is considered to satisfactorily compliment the residential character of the locality with a small reduction in the approved building footprint and the provision of ancillary facilities.	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
	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,	The proposed development is considered to satisfactorily compliment the residential character of the locality. The majority of floor levels will be lowered as part of this modification application, which when combined with the lowered and less bulky roof forms, would result in a reduced scale and height of buildings, with a consequent reduction in visual impact.	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	The proposed development is	YES

Control	Required	Proposed	Compliance
	reasonable neighbour amenity and appropriate residential character by adopting building heights at the street frontage that are compatible in scale with adjacent development,	considered to satisfactorily compliment the residential character of the locality. The modification reduced the scale and height of buildings.	
	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 modified pitched roof design incorporates eaves and considered less bulky with a lower ridge height than the approved skillion roof design. Accordingly the amenity to neighbouring properties is maintained.	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,	The modification application does not alter the setback as approved by LEC under DA6000/6478.	YES
	h. Embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.	The modification application does not significantly alter the approved landscaping proposed. Increased landscaping adjoining the internal roads are included in the modification application.	YES

General Principles	Applies	Comments	Complies
CL41 Brothels	NO	No Comment	N/A
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	N/A
CL45 Hazardous Uses	NO	No Comment	N/A
CL46 Radiation Emission Levels	NO	No Comment	N/A
CL47 Flood Affected Land	YES	The original approval under DA6000/6478 included flooding impact conditions of consent 6.1 to 6.5. The modification was referred to Council's Natural Environment section who had no objection to the proposed modification. The application will not significantly alter the proposal and the original conditions of consent will still apply.	YES
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	N/A
CL49a Acid Sulfate Soils	YES	D F Dickson & Associates as part of the original consent prepared an Acid Sulfate Soils report. The original approval under DA6000/6478 included soil and water management conditions of consent 7.1 to 7.13. The modification was referred to Council's Natural Environment section who had no objection to the proposed modification. The application will not significantly alter the proposal and the original conditions of consent will apply.	YES
CL50 Safety & Security	YES	The proposed development was considered satisfactory with regard to the provisions subject to the imposition of a condition requiring security lighting to be installed.	YES, subject to condition
CL51 Front Fences and Walls	NO	No Comment	N/A
CL52 Development Near Parks, Bushland Reserves & other public	YES	This general principle requires development adjacent to public open space to complement the landscape character and public use and enjoyment of that land.	YES

General Principles	Applies	Comments	Complies
Open Spaces		The proposed development (as amended) will not impact on the nearby reserve or parkland.	
CL53 Signs	NO	No Comment	N/A
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 modified) meets the requirements of Clause 54 of WLEP2000.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	No Comment	N/A
CL56 Retaining Unique Environmental Features on Site	YES	The proposed amended ancillary facilities 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 crosshatched area is effectively a containment line around the approved development to prevent infringement onto ecologically significant vegetation. The modified development respect the containment principles by ensuring that buildings and roads do not encroach into the cross-hatched area, beyond any encroachments, which already exist pursuant to the approved plans and passive recreation areas. The development (as modified) will not compromise the environmental values of the crosshatched area. The proposed amended ancillary facilities 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	The majority of floor levels will be lowered as part of this modification application, which when combined with the lowered and less bulky roof forms, would result in a reduced scale and height of buildings, with a consequent reduction in view impact. The existing surrounding development is located much higher than the proposed development and has views across the top of the proposed dwelling blocks. Existing views would not be significantly impacted by the proposed development. Accordingly no unreasonable view loss or view obstruction will occur as result of the proposed modification. The proposal is satisfactory in this regard.	YES
CL62 Access to sunlight	YES	The majority of floor levels will be lowered as part of this modification application, which when combined with the lowered and less bulky roof forms, would result in a reduced scale and height of buildings, with a consequent reduction in solar access. The proposal will not create any overshadowing for adjoining development. In addition each of the units will have adequate access to sunlight of at least two (2) hours per day.	YES
CL63 Landscaped Open Space	YES	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.	YES

General Principles	Applies	Comments	Complies
CL63A Rear Building Setback	No	No Comment	N/A
CL64 Private open space	YES	The proposed building footprint (excluding the ancillary facilities does not encroach beyond the approved development footprint. Each unit is provided with a minimum of 10m² or more private open space complying with apartment style housing requirement. This space is set apart for private use, is directly accessible from the living area and receives not less than 2 hours of sunlight between 9am and 3pm on 21st June. The development is considered satisfactory in addressing the requirements of Clause 64.	YES
CL65 Privacy	YES	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.	YES
CL66 Building bulk	YES	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. The approved plans provided for a relatively high skillion roof design, with no eaves and a higher wall area in the front elevation of the buildings. The modified pitched roof design incorporates eaves and is considered to be less bulky than the approved skillion roof design. 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.	YES
CL67 Roofs	YES	The modified pitched roof design incorporates eaves and considered less bulky than the approved skillion roof design. Accordingly, the modified roof design is in keeping with the surround locality and is therefore considered acceptable in terms of this general principle.	YES
CL68 Conservation of Energy and Water	NO	BASIX is not applicable to this development.	N/A
CL69 Accessibility – Public and Semi-Public Buildings	YES	The proposed development (as modified) 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	**Each block is provided with a separate cloths drying and bin storage facility within easy walking distance of the units within the block. The amended scheme provides for 3 bus stops for the Retirement Village internal bus services.** requirement of this Clause.	YES subject to condition
CL71 Parking facilities (visual impact)	YES	The Parking facilities are sited and designed to not dominate the street frontage or other public spaces and is satisfactory in addressing the General Principle.	YES
CL72 Traffic access & safety	YES	The site is located on a local road network. Accordingly, the traffic using this part of the road would be generally small volumes of local traffic. The proposed development will not change the existing traffic access and safety and therefore meets this requirement.	YES subject to condition
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.	N/A
CL74 Provision of	YES	Clause 74 stipulates that adequate off-street car parking is to	NO

General Principles	Applies	Comments	Complies
Carparking		be provided to serve a development and that the application must be assessed against the provisions of Schedule 17. **Assessment under the provisions of Schedule 17** The provisions of Schedule 17 provides car parking requirements for 'older people or people with a disability' to be provided with 0.5spaces per bedroom and 1 visitor space per 5 dwellings when the number of dwellings onsite exceeds 8. The proposed section 96 application to stage 2 provides for 79 x 2 bedroom units and 14 x 3 bedroom/study units (i.e. a total of 89 units). Accordingly a total 100 parking spaces is required for the development and 18 spaces required for visitors. The modified development provides for a total of spaces 89 parking spaces in the form garages for the development and 34 spaces for the visitors. The proposed development is therefore short 11 spaces for the development and but exceeds the parking for the visitors spaces in accordance with Schedule 17. The area of non-compliance stems from the increase in the number of bedrooms. The applicant has indicated that the units that are proposed to be three (3) bedrooms are effectively two (2) bedrooms plus a study. The proposed development provides the same carparking requirement as per the approved development (i.e. one space per each dwelling). The village as a whole provides adequate numbers of car spaces and given the units will be used by older people or people with a disability, the provision of a single car space per dwelling is considered adequate under the current circumstances. Accordingly, the non-compliance with number of car parking would not warrant the refusal of the application. In relation to visitors parking, the original approval did not provide any visitors spaces for the stage 2 and 3 development. The modified development provides 34 spaces for the development, which is an improvement in terms of providing visitors spaces for the development. In addition adequate visitor parking is provided in collective and dispersed locations across the War Veterans village. Accordingly, the proposal is therefore satisfactory with regard to the provisions of Schedule 17 and Clause 74 of WLEP 2000	
CL75 Design of Carparking Areas	YES	Car parking area 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	As part of the modification application the alignment and gradient of internal roads have been amended to comply with the 1 in 10 grade. The revised plans included chances to road levels and gradients for consistency with the stormwater concept designed approved by the Court. The application has been assessed by Council's Development Engineers and considered appropriate.	YES
CL77 Landfill	NO	No Comment	N/A
CL78 Erosion & Sedimentation	YES	Development is to be sited and designed and related construction work carried out, so as to minimise the potential for soil erosion. Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site was imposed by the LEC as part of the original consent. Conditions 7.1 to 7.13.	YES
CL79 Heritage Control	YES	The War Veterans site contains a number of heritage items,	YES

General Principles	Applies	Comments	Complies
		with local heritage significance. 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. Accordingly, the proposed development is not considered to impact upon the sites items of heritage significance and therefore no conditions or requirements are to be placed on the proposed development with regard to heritage matters.	
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.	N/A
CL81 Notice to Heritage Council	NO	No Comment	N/A
CL82 Development in the Vicinity of Heritage Items	YES	Clause 82 of the LEP provides that Development in the vicinity of heritage items or 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, sitting, external materials, finishes, colours and setting. Significant views to and from heritage items or heritage conservation areas, are not to be adversely affected. The subject site is located within the vicinity of a locally listed item of heritage significance as noted above in Clause 79. The modified development is not considered to have any adverse impact upon the existing items of heritage significance for the following reasons: • The development will be located a considerable distance from the items; • The fact the development is considered appropriate for the site and the locality by was of design, bulk scale and the intended use; • The existing visual setting is considered to be maintained. Accordingly, the proposal is considered to be satisfactory with regard to the requirements of the General Principle.	YES
CL83 Development of Known or Potential Archaeological Sites	NO	The subject site is not located within the vicinity of any known or potential archaeological sites	N/A

SCHEDULES

Schedule 8 - Site analysis

Site Analysis	Adequate site analysis documentation has been submitted with this application.

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.

Schedule 17 – Car parking Provision

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan 2008

The proposal is for the modification to an approved development under DA6000/6478. 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 96(AA) and Section 79C of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 55 – Remediation of Land**,** State Environmental Planning Policy (Infrastructure) 2007**,** Warringah Local Environment Plan 2000**,** Warringah Development Control Plan, draft Warringah LEP 2009 and the relevant codes and policies of Council.

The modification application entails amendments of the original LEC approval arising from minor errors in levels shown on the approved plans and the need to achieve a maximum 1 in 10 gradient, imposed as a condition of consent. The assessment of the application has revealed that the proposal (as modified) satisfies the requirements of the relevant WLEP 2000 DFC statement with respect to the visual pattern and predominant bulk and scale of housing consistent with the location's current character and that the amended buildings will contribute to the quality and identity of the area.

The development as modified is substantially the same development as what was originally approved. The modification will remain within the approved footprint resulting the same number of units and a slight increase in the floor space of the approved units. The proposed amendments offer improved residential amenity and convenience, for the elderly or disabled residents.

Four (4) letters of submissions were received to the proposed modified development. The issues raised in the submissions have been addressed in the "Public Notification Section" of this report.

It is considered that the Section 96 (AA) application satisfies the appropriate controls (subject to conditions) and that all processes and assessments have been satisfactorily addressed. Accordingly, the proposal is recommended for approval.

RECOMMENDATION (SECTION 96 APPROVAL)

That the Section 96 (AA) Application No. DA2010/0180 to modify Development Consent No. 6000/6478 granted by the Land and Environment Court for the construction 130 x 2 bedroom self - care units as an extension of the existing RSL War Veterans Retirement Village at Lot 1, DP 774980, Lot 1, DP 803645, Lot 2026, DP 752038, Lot 2611, DP 752038, Lot 573, DP 752038, and Lot 2641, DP 752038, Lot 1/ Veterans Parade, Wheeler Heights. be approved and the consent be modified in the following manner:

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

The development being carried out in accordance with development application DA6000/6478 plans numbered as seen below:

Drawing No.	Drawing Title	Revision Date	Date
Architecturals: Prepared by Cox Richardson Architects			
94072 DA-01 Rev A	Master plan	-	March 1998
94072 DA-02 Rev B	Site Plan	-	March 1998
94072 DA-03	Site Sections	-	March 1998

94072 DA-04	Units	-	March 1998
94072 DA-05	Community Club	-	March 1998

Except as modified by Modification 2 Reference 6000/6478/2 approved by Council on 5 October 2006 in accordance with the following drawing numbers:

Drawing No.	Drawing Title	Revision No.	Date
Architecturals: Prepared by Humel Architects			
100	Stage 1 Masterplan	-	December 2005
101 Rev G	Stage 1: Site Plan	08/02/2006	February 2006
102 Rev G	Stage 1: Ground Floor Plan	08/02/2006	February 2006
103 Rev G	Stage 1: First Floor Plan	08/02/2006	February 2006
104 Rev G	Stage 1: Building elevations & site sections 1 & 2	08/02/2006	February 2006
105 Rev G	Typical detail plans of units, garbage areas, clothes line pavilion and gazebo	08/02/2006	February 2006
106 Rev G	Typical floor plan & Roof plan & Elevations units blocks: A; B; D; E; F; G & H	08/02/2006	February 2006
107 Rev G	Typical floor plan & Roof plan & Elevations units blocks: C	08/02/2006	February 2006

And as modified by Modification 3 Reference 6000/6478/3 approved by Council on 27 May 2007 in accordance with the following drawing numbers:

Plan Number / Title	Dated
PSL3391A/LA/CD-000 (Issue A) "Cover Sheet"	Oct 06
PSL3391A/LA/CD-001 (Issue A) "GA Materials and Finishes Plan – Community Building"	Oct 06
PSL3391A/LA/CD-005 (Issue A) "Planting Layout Plan – Community Building"	Oct 06
PSL3991A/LA/CD-009 (Issue A) "Landscape Hardworks Details"	Oct 06
PSL3391A/LA/CD-010 (Issue A) "Softworks Details and Plant Schedule"	Oct 06
2003.10-101 (Rev A) "Stage 1A – Site Plan Community Building"	20-10-06
2006.50-103 (Rev B) "Ground Floor Plan Community Building"	31-10-06
2006.50-106 (Rev CC) "Stage 1A – Community Building Elevations & Sections"	1-02-2007

And as further modified by the plans listed below that were submitted with the Section 96 application no Mod2010/0180, and endorsed with Council's approval stamp, but only in so far as the plans reflect the changes outlined in the Statement of Environmental Effects dated July 2010 prepared by Ingham Planning Pty Ltd;

Drawing Number	Rev	Dated	Prepared By
DA0 – DA20	S96AA	July 2010	Humel Architect Pty Ltd

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

B. Modify condition No.26 - Accessible Entry to read as follows:

The development is for the purposes of Seniors Housing or Housing for Persons with a Disability and is required to comply with the Schedule 3 (Standards concerning accessibility and useability for self-contained dwellings) of the State Environmental Planning Policy (Housing for seniors or people with Disability 2004.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure statutory requirements have been completed, public safety and equitable access for seniors of people with a disability.*

C. Additional Conditions to read as follows:

1 (A). Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service	E-Services Reference	Dated
NSW Office of Water	Response NSW office of Water Referral	29/09/2010
NSW Rural Fire Services	Response NSW RFS Referral	8/09/2010

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: *To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies.*

6. No Development is to occur on the Cross Hatched Area

No approval is granted under this modified consent for any works to occur within areas of the locality shown as cross -hatched on the maps.

This does not apply to the existing approved Development and any passive recreational areas.

***Reason**: To comply with the requirements of WLEP 2000.*

6 (A). Flooding

(i) Habitable Rooms

No approval is granted by this development consent for habitable rooms (as defined by the New South Wales Floodplain Development Manual) to be located under the flood planning level.

(ii) Fencing

All fencing shall be designed and constructed from flood compatible materials (as defined by the New South Wales Floodplain Development Manual) and withstand the hydraulic forces of the floodwater. Any fencing must not impede the existing flood regime and allow passage of flood waters and not result in an adverse flood impact to surrounding properties for events up to and including the 1% ARI (i.e. open style fence),

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

Reason: *To protect the building from flooding in accordance with Council and NSW Government policy.*

7. Surrender of Modification Application

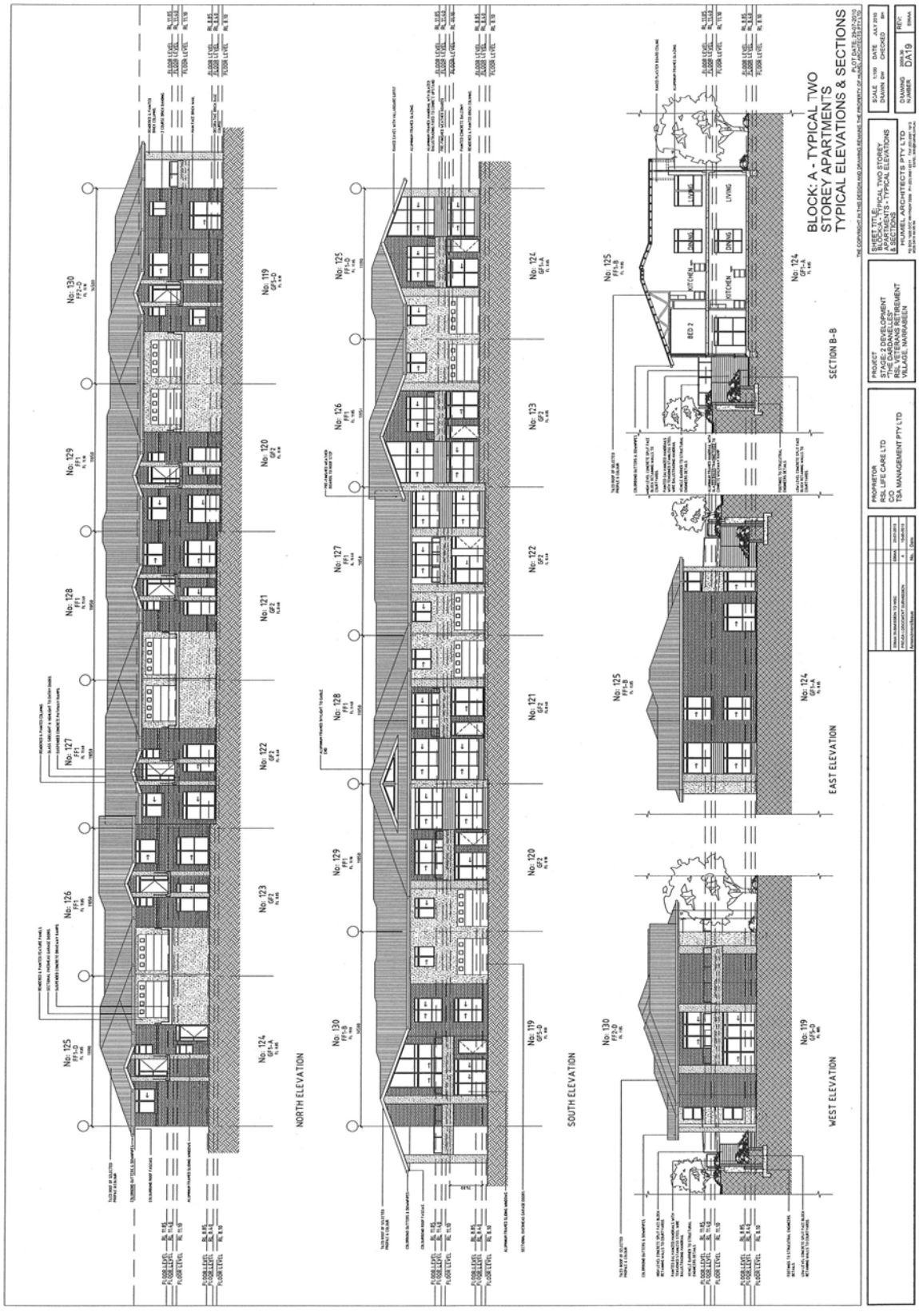
The applicant shall surrender to Council modification of Development Consent No: Mod2008/0158 in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

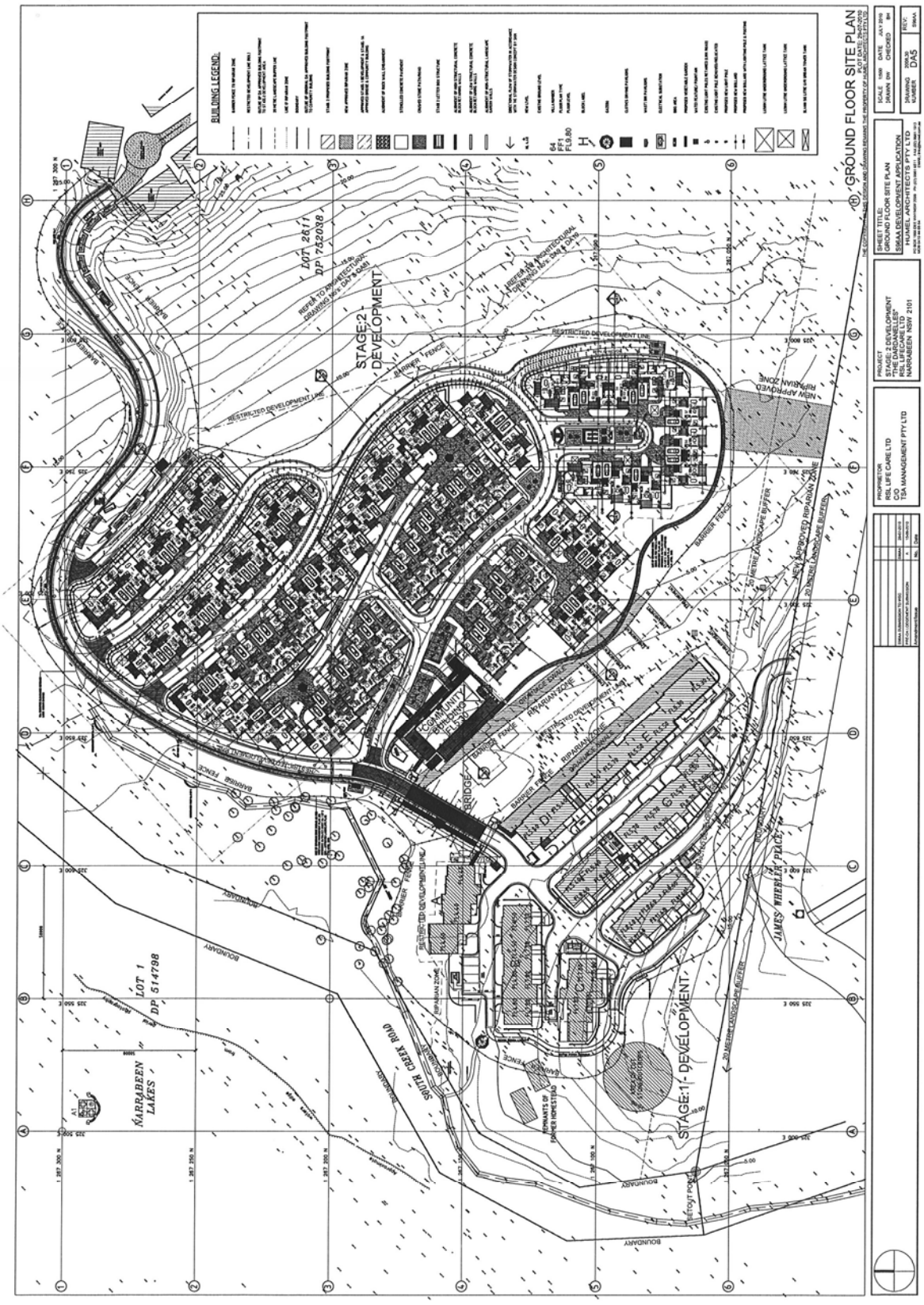
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent inconsistencies between consent applying the site (ref s80A (5) EPAA & cl97 EPA Reg).

ATTACHMENT A

Site and Elevation Plan



ATTACHMENT A

Site and Elevation Plan