

27 June 2018

14653

Ms Carolyn McNally
Secretary
NSW Department of Planning and Environment
320 Pitt Street
Sydney NSW 2000

Attn: David Gibson

Dear Ms McNally

SECTION 4.55(2) – MODIFICATION APPLICATION TO SSD 7588 10 HERBERT STREET, ST LEONARDS – NORTHSIDE MENTAL HEALTH FACILITY

On behalf of Ramsay Health Care (RHC) we hereby submit an application pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent SSD 7588 relating to 10 Herbert Street, St Leonards.

The application primarily relates to the creation of a new Level 08 to accommodate an In-Patient Unit and a resultant increase in gross floor area (GFA). It also seeks consent for an additional 16 car spaces located on the western side of the ground floor.

This section 4.55(2) application identifies the applicable development consent and describes the proposed modifications. It includes an assessment of the proposal in terms of the matters for consideration as listed under section 4.15C(1) and section 4.55 of the EP&A Act. This application is accompanied by:

- Notice of determination SSD 7588 (**Attachment A**);
- Revised Architectural Drawings prepared by Silver Thomas Hanley (**Attachment B**);
- Traffic and Parking Report prepared by Transport and Traffic Planning Associates (**Attachment C**);
- Structural Statement prepared by ACOR Consultants (**Attachment D**);
- BCA Report prepared by McKenzie Group (**Attachment E**); and
- Covering Letter prepared by Northside Group (**Attachment F**).

1.0 Background

1.1 Consent proposed to be modified

Development consent for SSD 7588 was granted by the NSW Department of Planning and Environment on 15 November 2016 for the construction of an eight-storey mental health services facility.

Ramsay Health Care (RHC) are currently relocating an existing mental health care facility in Greenwich to a now nearly complete purpose built modern facility at 2 Frederick Street, St Leonards (formerly 10 Herbert Street St Leonards). The site is approximately 200 metres north of North Shore Private Hospital and 625 metres north of St Leonards Railway Station.

Since consent was issued, RHC have submitted one modification application to date. This application (SSD 7588 MOD 1) related to the modification of Condition C21 and the deletion of Condition E10 both of which relate to Green Star Certification to the approved building. This application was approved on 23 March 2017.

Accordingly, this section 4.55(2) application represents the second modification application to SSD 7588 to date.

2.0 Description of Proposed Development Modifications

The proposed modifications to SSD 7588 are illustrated on the Architectural Drawings included at **Attachment B**. Ultimately, the application seeks approval to add a new Level 08 to accommodate an In-Patient Unit as well as an additional 16 car spaces at ground level. To realise this, the proposed modifications include the following:

- removal of the temporary barrier and roof hatch to provide access to Level 08;
- demolition of Level 08 roofing and screening under the Level 09 plant area;
- creation of an additional level of hospital related floor space at Level 08 to accommodate:
 - 24 patient rooms with an ensuite bathroom;
 - nurses station and offices;
 - interview/consulting rooms;
 - group room and lounge area;
 - two outdoor balconies inboard of the façade;
 - plant room; and
 - new window openings.
- construction of new roof and parapet over Level 08 including new roof access hatch on Level 09; and
- provision of 16 additional car spaces on the western side of the ground level car park.

2.1 Modifications to the Development

The proposed modifications are a result of further detailed design to enable the construction of an additional level for hospital related floor space and 16 car spaces at the western side of the ground level car park. The amended drawings illustrating the revised design are provided at **Attachment B**.

The proposed modifications comprise the following key elements.

Built Form

The built form of the modified building generally retains the key parameters of the approved building envelope. The extension of Level 08 will allow for the construction of 24 individual rooms and associated consultation rooms, interview rooms and back of house facilities.

The amended building height is considered to be minor in the context of the approved development as the modification application primarily relates to the extension of an existing level. As such to accommodate hospital floor space on Level 08 and plant/mechanical servicing on Level 09 a minor change in building height from RL 114.8 to 116.75 is proposed. This change is considered to be minor in nature and will not result in adverse impacts on the bulk, scale or form of the building.

Gross Floor Area

As part of the original DA, plant was included at Level 08. However, now that detailed design requirements are understood, it has come to light that Level 08 can accommodate hospital floor space and Level 09 can accommodate plant / mechanical servicing. The proposed modifications to the building will see the GFA change from 9,309m² to 10,341m², amounting to an increase of 1,032m² of GFA. The additional GFA will facilitate the delivery of an additional 24 patient rooms and nurse stations/offices to meet the requirements of the facility and enable treatment to occur in the one building.

These amendments will improve the amenity and functionality of the development by repurposing Level 08. The proposed increase in GFA will not give rise to any adverse amenity or built form impacts. Indeed, it will assist in the

facility servicing the acute need for mental health services and treatment in northern Sydney and will substantially improve the public benefit delivered by the project.

Façade Amendments

As shown on the Architectural Drawings prepared by STH Architects (refer to **Attachment B**), the extension of Level 08 has been designed to have the same materiality and architectural expression as the approved building. The proposed materials include aluminium composite panels, mesh with a perforated pattern and glass. Additionally, Level 08 will replicate the existing levels below in terms of window and balcony placement. Specifically, the proposal includes the addition of two balconies inboard of the façade and window boxes replicating the façade of levels 04 to 07.

The approved and proposed development is shown below.

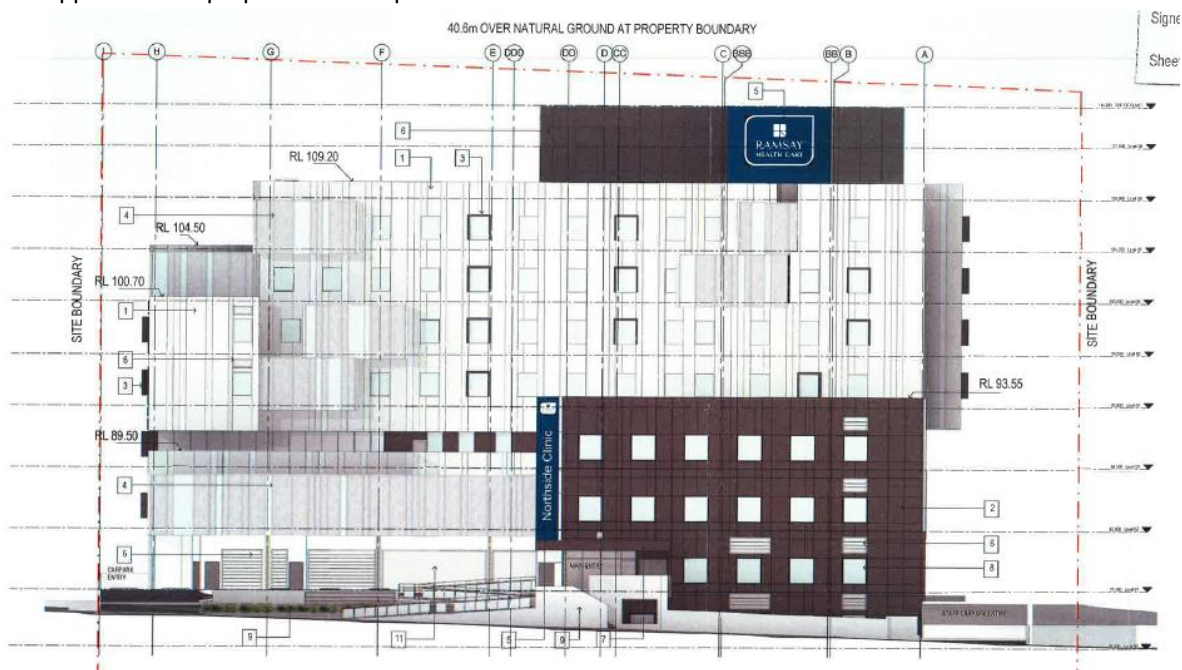


Figure 1 Approved development – north elevation

Source: STH Architects

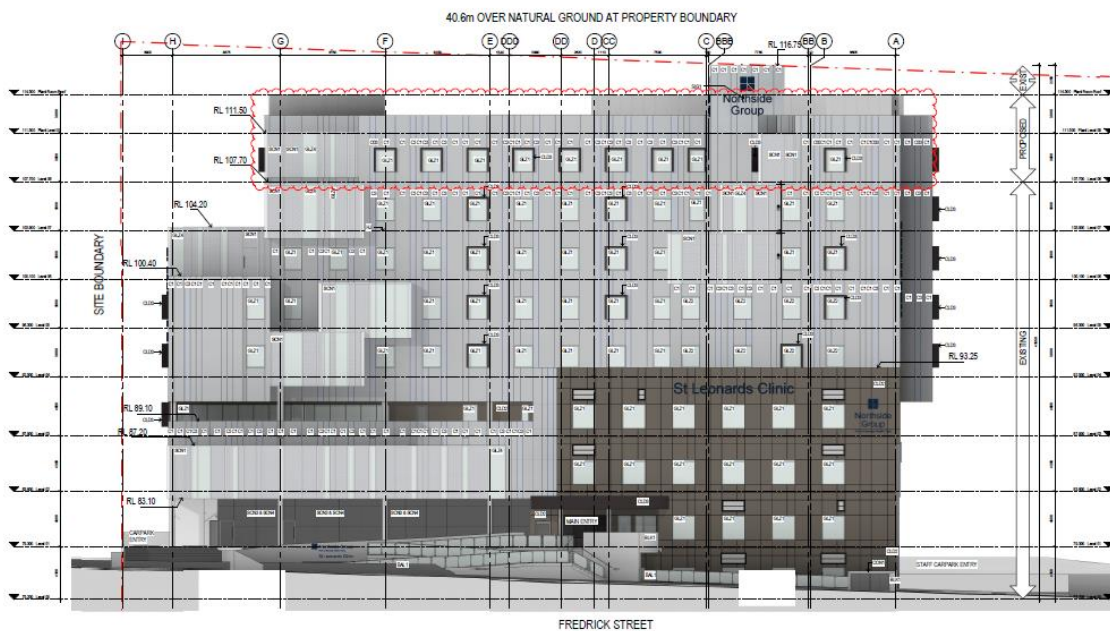


Figure 2 Proposed development – north elevation

Source: STH Architects Source/Notes

Access and Car Parking

The proposed development seeks to introduce an additional 16 car spaces located on the ground level car park. The total number of car spaces on the site will be amended from 139 to 155 car spaces in order to accommodate practitioners, staff, patients and visitors as a result of the additional beds. As discussed in **Section 5.4** below, the provision of 16 additional spaces complies with the DCP requirement.

Further, the vehicle access arrangements for the development will be consistent with the approved development, with a combined ingress/egress driveway near the western boundary for staff parking and service vehicles. Given that the aisle width of the western driveway is 7.8m it far exceeds the minimum AS design criteria, allowing for sufficient space for vehicles to manoeuvre. Additionally, the layout of the new car parking area will comply with the design criteria of AS 2890. 1 & 6 including bays, aisles and manoeuvring areas.

Provision for servicing will be accommodated by the approved arrangement, with the loading dock area on the western side providing space for trucks up to 11.5m as well as ambulances and other small service vehicles.

Further detail on access arrangements, car parking and turning paths is provided in the Traffic and Parking Assessment at **Attachment C**.

3.0 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in **bold italics**.

Development in Accordance with Plans and Documents

A2. The Applicant shall carry out the development in accordance with the conditions of consent and generally in accordance with the:

- a) *Environmental Impact Statement, 10 Herbert Street, St Leonards, Hospital prepared by JBA Urban Planning Consultants Pty Ltd, dated July 2016;*
- b) *Response to Submissions prepared by JBA Urban Planning Consultants Pty Ltd, dated September 2016 and accompanying attachments; and*
- c) *Following drawings, except for:*
- i) *any modification which are Exempt or Complying Development;*
 - ii) *as otherwise provided by the conditions of this consent.*

Table 1

Architectural Drawings prepared by Silver Thomas Hanley (AUS) Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
A-01-00	C	SITE ANALYSIS/LOCATION PLAN	27/01/16
STH-AR_DWG-0002	D		21/06/2018
A-01-01	B	EXISTING SITE PLAN	27/01/16
A-01-02	C	PROPOSED SITE PLAN	24/06/16
STH-AR-DWG-0003	C		21/06/2018
A-02-00	B	DEMOLITION PLAN	27/01/16
STH-AR-DWG-0004	D	DEMOLITION PLAN – LEVEL 08	21/06/2018
A-03-10	D	AREA PLANS	24/06/16
STH-AR-DWG-0005	D	PROPOSED AREA PLANS	21/06/2018
STH-AR-DWG-0006	C	<i>Proposed view – from Frederick Street</i>	21/06/2018
STH-AR-DWG-0007	C	<i>Proposed view from Herbert Street</i>	21/06/2018
A-04-10	D	EXTERNAL FINISHES	24/06/16
STH-AR-DWG-0011	C		21/06/2018
A-05-00	B	SHADOW DIAGRAMS	24/06/16
STH-AR-DWG-0012	D	<i>Proposed Shadow Diagrams</i>	21/06/2018
STH-AR-DWG-00012A	D	<i>Proposed Shadow Diagrams</i>	21/06/2018
STH-AR-DWG-0013	D	<i>Proposed Floor Plan – Ground</i>	21/06/2018
A2.202	G	FLOOR PLAN – LEVEL 01	24/06/16
STH-AR-DWG-0014	D	<i>Existing Floor Plan – Level 01</i>	21/06/2018
A2.203	G	FLOOR PLAN – LEVEL 02	24/06/16
STH-AR-DWG-0015	D	<i>Existing Floor Plan – Level 02</i>	21/06/2018
A2.204	G	FLOOR PLAN – LEVEL 03	24/06/16
STH-AR-DWG-0016	D	<i>Existing Floor Plan – Level 03</i>	21/06/2018
A2.205	E	FLOOR PLAN – LEVEL 04	24/06/16
STH-AR-DWG-0017	D	<i>Existing Floor Plan – Level 04</i>	21/06/2018
A2.206	E	FLOOR PLAN – LEVEL 05	27/01/16
STH-AR-DWG-0018	D	<i>Existing Floor Plan – Level 05</i>	21/06/2018
A2.207	E	FLOOR PLAN – LEVEL 06	27/01/16
STH-AR-DWG-0019	D	<i>Existing Floor Plan – Level 06</i>	21/06/2018

Architectural Drawings prepared by Silver Thomas Hanley (AUS) Pty Ltd			
A2.208 STH-AR-DWG-0020	E D	FLOOR PLAN – LEVEL 07 Existing Floor Plan – Level 07	24/06/16 21/06/2018
A2.209 STH-AR-DWG-0021	D D	FLOOR PLAN – LEVEL 08 ROOF Proposed Floor Plan – Level 08	27/01/16 21/06/2018
A2.210 STH-AR-DWG-0022	D D	FLOOR PLAN – LEVEL 09 ROOF PLANT	4/07/16 21/06/2018
A2.211 STH-AR-DWG-0023	D D	EXISTING PLAN Existing Roof	24/06/16 21/06/2018
A5.001 STH-AR-DWG-0024	D D	ELEVATION – NORTH Proposed Elevation – North	24/06/16 21/06/2018
A5.002 STH-AR-DWG-0025	D D	ELEVATION – EAST Proposed Elevation - East	24/06/16 21/06/2018
A5.003 STH-AR-DWG-0026	D D	ELEVATION – SOUTH Proposed Elevation – South	24/06/16 21/06/2018
A5.004 STH-AR-DWG-0027	D D	ELEVATION – WEST Proposed Elevation - West	24/06/16 21/06/2018

Reason: The proposed modifications substantially retain the key features of the approved development, but include the extension of an existing level and associated changes to accommodate 24 additional rooms and facilities. Since the facility became operational in February, additional floor beds are required to meet the needs of the community and the growing patient base. The Northside Group have identified that 98 people are currently on the wait list, with this set to increase. As such, the use of Level 08 as hospital floor space will allow Ramsay to increase the patient capacity on site and accommodate the growing cohort of patients in the new Young Adult Program.

4.0 Substantially the Same Development

Section 4.55(2) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)*”.

Whilst there is no definitive rule when it comes to determining what constitutes ‘substantially the same development’, the NSW Land and Environment Court case of *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280*, established some key principles to be taken into account when considering what constitutes a modification:

- the verb “modify” means to alter without radical transformation;
- “substantially” in this context means essentially, materially or having the same essence;
- a development as modified would not necessarily be “substantially the same development” simply because it is for precisely the same use as that for which consent was originally granted;
- a modification application involves undertaking both a qualitative and quantitative comparison of the development as originally approved and modified;
- material changes can be permitted but only if they are not so material as to effect a transformation of the building;
- changes to matters such as floor space, height and building profile can be considered;
- changes to the facades, the appearance and the presentation of buildings can be considered;

- although the comparative task required under section 4.55 involves a comparison of the **whole** of the development being compared, that fact does not eclipse or cause to be eclipsed if a particular feature of the development, particularly if that feature is found to be important, material or essential to the development; and
- environmental impacts of the proposed modifications are relevant in determining whether or not a development is 'substantially the same'.

An assessment of the proposed modifications against these key principles is outlined below. The development as proposed to be modified is substantially the same development as the development consent was granted as:

- the proposed changes to floor space and building height is not considered significant and will ultimately provide better use of space;
- there are no changes to the architectural qualities and materials;
- the proposed modifications do not generally alter the key components of the approved development description;
- the proposed modifications do not seek to amend the approved land use;
- the proposed changes do not affect the overall footprint of the development, or its interaction with the public domain;
- the extension of Level 08 adopts the same setback as Level 07 and will continue to maintain adequate building separation for amenity and privacy;
- the proposed modifications do not result in a variation to a development standard;
- the fundamental social and health benefits delivered by the development in the form of a new mental health facility will continue to be provided, and specifically be expanded by this proposed modification;
- there are no changes to the access arrangements from the surrounding street network;
- non-sensitive land uses surround the site including industrial complexes and warehouses, as such the proposed development will not give rise to any adverse amenity impacts such as overshadowing, visual bulk and scale and visual and acoustic privacy; and
- the environmental impacts of the modified development remain the same as the approved development.

When the proposed changes are considered as a whole they result in a modest amendment to the visual presentation of the existing building. The changes result in an improved design outcome which will enhance functionality and the delivery of services and will not result in any adverse impacts beyond what was approved under the original proposal. For these reasons, the Department can be satisfied that the modified proposal is substantially the same for which consent was originally granted.

5.0 Environmental Assessment

Section 4.55(3) of the EP&A Act requires the consent authority to take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The following assessment demonstrates that the proposed modifications will not create any additional environmental impacts beyond those considered during the assessment of SSD 7588. The key considerations are summarised below.

5.1 Compliance with relevant planning instruments, DCPs and Policies

The EIS submitted with the original DA addressed the proposed development's level of compliance against relevant planning instruments, including:

- *Environmental Planning and Assessment Act 1979*;
- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy (Infrastructure) 2011*;

- *State Environmental Planning Policy No. 55 – Remediation of Land*;
- *Willoughby Local Environmental Plan 2012 (WLEP 2012)*;
- NSW State Priorities;
- A Plan for Growing Sydney;
- NSW Long Term Transport Master Plan;
- Sydney's Cycling Future;
- Sydney's Walking Future;
- Healthy Urban Development Checklist; and
- Crime Prevention through Environmental Design Principles.

The proposed changes do not substantially alter the development and are proposed for the purposes of improving functionality of the building and efficiency of the layout. The proposed amendments ultimately result in the extension of an existing level and minor increase in building height and GFA. It should be noted that the site is located in the IN2 Light Industrial zone under the WLEP 2012 where there are no prescribed building height limits, maximum FSRs, setback controls or recommended urban design standards.

Notwithstanding this, the proposed changes are generally consistent with the relevant planning instruments and the EIS submitted with the original DA.

5.2 Impact on the Environment

The EIS submitted with the original DA addressed the likely impacts of the development, including:

- compliance with relevant strategic and statutory plans and policies;
- noise and vibration;
- contamination;
- utilities;
- contributions;
- drainage;
- flooding;
- waste management;
- tree removal;
- geotechnical and structural issues;
- acid sulfate soils; and
- ESD Measures.

Compliance with relevant strategic and statutory plans and policies has been considered above. The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. The relevant matters that require specific detailed assessment in relation to the proposed modifications are further discussed below.

5.3 Overshadowing

Amended Shadow Diagrams have been prepared by STH Architects (refer **Attachment B**) for the development. The shadow diagrams have been prepared at the winter and summer solstice at 9am, noon and 3pm. Given the site context and minor increase in building height, the amended plans illustrate that neighbouring sites will retain significant access to sunlight, even at the mid-winter solstice. It should be noted that the site is located in an industrial area and therefore no solar access control applies. As well, the area to the south of the site at 6-8 Herbert Street comprises a large industrial / warehouse complex with a diverse range of businesses. Notwithstanding, any

additional overshadowing is generally confined to a small portion of the adjoining properties and will be generally limited to the early hours of the morning.

An extract of the amended shadows diagrams at the winter solstice is shown below, indicating the shadow cast by the existing and proposed development.



Figure 3 Proposed shadows on the winter solstice (existing building shown in dashed line)

Source: STH Architects

5.4 Traffic and Parking

The proposed modifications will not result in substantive changes to the general access arrangements for the facility. An assessment of the proposed modifications and its impacts on the traffic and parking has been included in the Traffic and Parking Assessment at **Attachment C**.

The additional car spaces are in accordance with the requirements for mental health facilities. It is proposed to provide a total of 155 parking spaces to accommodate additional practitioners, staff and beds by way of the following:

- Practitioners x 3 - 3 spaces
- Staff x 10 - 5 spaces
- Beds x 24 - 8 spaces

- Patients Not applicable
- **Total** **- 16 spaces**

It is considered that the additional 16 spaces will accommodate the proposed modifications given that the Ramsay Health Care mental health facility operates differently to a normal hospital facility because:

- mental health patients have less visitors;
- Ramsay prohibits in-patients from self-driving to/from these facilities for safety reasons; and
- staff members will be subject to some support and encouragement measures and be provided location specific travel plans and Transport Access Guide which were prepared and submitted during the previous scheme.

The proposed car spaces will be accessed via the western driveway where there are generous manoeuvring provisions consistent with the AS design requirements. The layout of the carpark areas will comply with the design criteria of AS 2890.1 and 6 including bays, aisles and manoeuvring areas. Details of the additional car parking spaces is shown on the Architectural Plans at **Attachment B**.

Having regard to the above, it is considered that the additional car parking spaces within the ground level car park will be consistent with the DCP provisions and will not have any adverse implications on the carparking operations.

5.5 Structural Adequacy

A Structural Statement has been prepared by ACOR Consultants (**Attachment D**) to address the structural requirements of the proposed modifications. The statement confirms that the existing structure is capable of supporting extra loads due to the proposed Level 08 expansion.

5.6 Building Code Compliance

An assessment of the proposed modifications against the provisions of the Building Code of Australia (BCA) has been undertaken by McKenzie Group and can be found at **Attachment E**. The assessment concludes that the proposed development continues to comply with the relevant provisions of the BCA.

5.7 Construction Management

The proposed construction works for the development are not expected to give rise to any unacceptable or detrimental impacts, particularly given that some construction works are still occurring on the site and it is located within an existing industrial area. Additionally, it is in the commercial and operational interest of RHC to ensure the works associated with the proposed modifications do not adversely impact upon the operation of the mental health facility.

As such, it is RHC's intention to provide a Construction Management Plan prior to the issue of a Construction Certificate related to the proposed modifications. The plan will set out the environmental management requirements for the project, and is recommended to be included as a condition of consent. The plan will address the following:

- Hours of work;
- Worker and machinery access;
- 24 hour contact details of site manager;
- Traffic management in consultation with council;
- Construction noise and vibration management;
- Management of dust and odour;
- Erosion and sediment control;
- External lighting compliance;
- An unexpected finds protocol; entry and exit locations of all heavy vehicle movements;

- Waste classification and validation; and
- Waste storage, recycling and litter control.

5.8 Social and Economic Impacts

The proposed development will continue to provide a positive social impact for the community, through the provision of a modern and much needed mental health facility. It will provide additional beds for inpatient and day patient clinical services, whilst alleviating the growing mental health care deficit in the area. As discussed in the Cover Letter prepared by the Northside Group (**Appendix F**), the facility currently has a waitlist of 98 people, which is set to increase. As such, the additional level will accommodate the growing cohort of patients through the provision of vital health care services, while making a significant positive impact on the social fabric of the area.

The proposal will also result in significant economic benefits in that it will provide construction and operational employment opportunities, as well as facilitating opportunities for patients to increase their economic contribution to society. Overall, the proposed development will have a positive social and economic impact for the community and will provide a high quality environment for its patients, staff and visitors.

5.9 Public Interest

The proposed development will provide additional floor space for quality mental health services that is compatible with the surrounding pattern of development. Given the growing rate of mental health in the area, the proposed development will result in significant public benefits by providing an additional 24 beds within the facility. Ultimately, the proposed modifications will allow for a development that will contribute to the health and wellbeing of the growing population, whilst contributing to the acute need for mental health services and treatment in northern Sydney.

Additionally, the amenity of adjoining properties will not be detrimentally impacted upon by the proposed modifications. As such, it is considered that the proposed modifications will continue to be in the public interest.

6.0 Conclusion

In accordance with section 4.55 (2) of the EP&A Act, the modified development will be substantially the same as the originally approved development. The section 4.55(2) application seeks to facilitate amendments in order to better respond to the operational needs of the mental health facility and to provide for an improved design. The proposed modifications will not substantially alter the environmental impacts assessed and approved as part of the existing development consent, nor will they give rise to any additional amenity impacts.

In accordance with section 4.55 (2) of the EP&A Act, the Department may modify the consent as:

- the consent as proposed to be modified, is substantially the same development as originally approved;
- the proposed modifications will provide an increased number of patient beds whilst providing vital mental health care services in northern Sydney;
- the modifications will rationalise the approved design in a way that better responds to the operations of the facility, therefore improving the functionality; and
- the proposal will not result in unacceptable adverse environmental, social or economic impacts.

In light of the merits of the proposal and in the absence of any significant adverse environmental, social or economic impacts, we recommend that the application be approved subject to standard conditions of consent.

We trust that this information is sufficient to enable assessment and approval of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact the undersigned on 02 9956 6962 or dwest@ethosurban.com.

Yours sincerely,



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