
Sent: 10/10/2014 12:00:16 PM
Subject: Submission - D Ridgway - MOD2014-0186.pdf
Attachments: Submission - D Ridgway - MOD2014-0186.pdf;

Att: Lashta Haidari

Please find attached my submission for MOD2014/0186.

Regards

David Ridgway

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10 October 2014

Warringah Council
Civic Centre 725 Pittwater Rd
DEE WHY NSW 2099

Dear Sir/Madam

Re: MOD2014/0186 – Modify conditions of consent.

I write to express my opinion regarding the above matter.

The following is my list of objections to the application MOD2014/0186:

1. **The original proposal, and final consent of the Greenhaven Development by the Land and Environment Court of New South Wales (LECNSW) had James Wheeler Place as 'Emergency access' only and it was in this context for which the whole development was given consent.**

The original application for the Greenhaven Development stated that access is to be via a connector road which will connect with the existing village. Emergency access and egress is to be provided via James Wheeler Place.

The conditions of consent in the judgement by Perlman J of the LECNSW are relevant to this Sect 96AA application:

7.6 – *'Construction Access is to be limited to the Site with the access points to be approved by the Council.'*

10.19 – *'The submission to the Council of the operational details of the proposed emergency entry/exit point James Wheeler Place. Such details shall ensure that vehicular and/or pedestrian ingress and egress to the Development from this point is not possible excluding ingress and egress for emergency purposes such as for fire fighting purposes and emergency evacuation.'*

The current modification application MOD2014/0186 and covering letter from BBC Consulting Planners suggest the consent can be modified by deleting Condition No 10.19 to have effect once construction is completed.

It is very important to note that the owner, or the owner's agent have previously sought to modify the original conditions of consent, by way of Development Application No 2004/0460DA. This DA sought approval for an Access Driveway from Lantana Ave into the Greenhaven Development. This DA application was refused by Warringah Council and it is very pertinent because of the logic used by the experts who sat on the Independent Hearing and Assessment Panel and the reference to James Wheeler Place.

In the *'Report of Independent Hearing and Assessment Panel (IHAP) Meeting held 9 February 2005'* the panel stated:

5. Panel Assessment

The Context for Assessment

The Panel is of the view that the decision of Pearlman J in granting consent to the Greenhaven Retirement Village provides the context in which to assess the current development application (*RSL Veterans' Retirement Villages Ltd v Warringah Council* [1998] NSWLEC 100). It is apparent from the terms of the consent that Snake Gully Crescent is to be the long-term access road to service the new development. The need for temporary access is acknowledged, this decision being left to Council. The following conditions attached to the Land and Environment Court's consent were considered by the Panel to be of significance:

- a. *3(a) The existing road system within the Existing Village, including Snake Gully Crescent, shall be upgraded to a standard commensurate with its function as a connector road for the Development. Such upgrading shall have regard to maintaining the amenity of the existing residents. Details shall be submitted with the civil engineering plans referred to in condition 10.14 ("the engineering plans").*
- b. *10.19 The submission to the Council of the operational details of the proposed emergency entry/exit point James Wheeler Place. Such details shall ensure that vehicular and/or pedestrian ingress and egress to the Development from this point is not possible excluding ingress and egress for emergency purposes such as for fire fighting purposes and emergency evacuation.*

Furthermore 'The Panel Assessment' stated:

As previously stated, the Panel accepted that the application should be assessed in the context of the consent granted by the Land and Environment Court in 1998. When granting that consent, the Court assessed the development as a whole. The 1998 consent envisages long-term access via Snake Gully Crescent, which would require redesign and upgrading. The outstanding issue is thus short-term access to facilitate construction.

It also stated:

James Wheeler Place is not favoured due to its geography, current development and use as an access point for recreational activities.

The logic used above by the panel of experts in law, planning and environment recognised the importance of the 'context' in which the original Greenhaven development consent was given and this 'Context' was used in refusing the 2004/0460DA for an Access Driveway from Lantana Ave. The same context applies to this current MOD2014/0186 and it should be refused. Also, the option of James Wheeler Place was considered by the panel of experts and was not 'favoured'.

2. The MOD2014/0186 application is inconsistent with the requirement in the B6 DFC Statement

In the LECNSW dismissal of the appeal to Council's rejection of 2004/0460DA for an Access Driveway from Lantana Ave, the judge C Brown stated:

68 The proposed road is not a road shown on the 1998 approval or any other approval and as such is inconsistent with the requirement in the B6 DFC Statement requiring "no development within areas within the locality shown cross-hatched on the maps, except for.... the existing approved vehicular access".

The same reason applies in regards to the road usage of the access from James Wheeler Place which was, and is for Emergency access only.

3. **Residential Amenity Impacts**

The residents of James Wheeler Place would be significantly impacted by this modification of consent.

- Increased traffic volume. It is reasonable to assume that James Wheeler Place would be a shorter route to Dee Why, Cromer, etc for more than just the 130 dwellings as stated in the BBC Consulting Planners supporting information (Section 7 Environmental Effects) and for which they based their traffic movement calculations on.
- Increased noise as a result of increased traffic volume
- Increased traffic congestion at both the exit from James Wheeler Place onto Rose Ave and at the current one lane Emergency access to the retirement home.

These impacts would be permanent and are considered an unreasonable impose on local residents.

4. **Errors in ‘Application to Modify a Consent (Section96)’**

- (i) Part 1 Summary Applicant Details
The ‘Applicant’ name is stated as ‘*RSL Life Ltd c/o BBC Consulting Planners – Dan Brindle*’.
I cannot find any record of ‘*RSL Life Ltd*’ on any ASIC database.
- (ii) Part 2 Application Details – 2.2 development consent, the ‘Description of consent’ is stated as:
‘130 bedroom self-care units as an extension of the existing RSL War Veterans Retirement Village at Narrabeen including a community building, road access and stormwater drainage and associated infrastructure’
The correct description of consent/proposal in the judgement handed down by J Pearlman on the 28 May 1998 is:
...It is to contain 130 x 2 bedroom self-care units...’
The incorrect description of consent is misleading when determining the number of vehicle movements along James Wheeler Place.

Yours faithfully

David Ridgway
Resident – 14 James Wheeler Place, Wheeler Heights NSW 2097