

## NOTICE OF DETERMINATION

<b>Application Number:</b>	<b>MOD2009/0298</b>
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### APPLICATION DETAILS

<b>Applicant Name and Address:</b>	TSA Management Pty Ltd Level 16 207 Kent Street SYDNEY NSW 2000
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<b>Land to be developed (Address):</b>	Lot 2611, DP 752038. Veterans Parade, Wheeler Heights.
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<b>Proposed Development:</b>	Modification of Consent DA6000/6478 for a coffee Shop within the Community Building
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### DETERMINATION - REFUSED

<b>Made on (Date):</b>	18 March 2010
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### Details of Reasons of Refusal

That the Section 96 (AA) Application No. 2009/0298 to modify Development Consent No. 6000/6478 granted by the NSW 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 to use the Community Building (clubhouse) for a public coffee shop at Lot 1, DP 752038, Veterans Parade, Wheeler Heights be refused for the following reasons:

1. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the existing coffee shop facility does not have consent to operate as a shop.
2. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the requirement of Section 96 (AA) of the Environmental Planning and Assessment Act 1979 in terms the proposed modification for a shop is not substantially the same development as the original approval for a Community Building (Clubhouse).
3. Pursuant to Section 79C (1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the development is inconsistent with the following 'General Principles of Development Control';
  - Clause 72 - Traffic and Safety
  - Clause 74 - Provision of Carparking

4. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development was not submitted with a Site Analysis in compliance with the requirement of Schedule 8 of the Warringah LEP 2000.
5. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development was not submitted with a Statement of Environmental Effects that adequately addresses the requirements of Schedule 15 of the Warringah LEP 2000.
6. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development was not submitted with a Bushfire Safety and Hazard assessment that adequately addresses the requirements of evacuation and fire safety for the establishment of a public coffee shop within a Bushfire Hazard Zone.
7. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 the proposed development is not considered to be in the public interest.

#### **Right to Review by the Council**

You may request Council review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979 if it is NOT integrated or designated development. Any request to review the application must be made and determined within 12 months from the date of determination.

*NOTE: A fee will apply for any request to review the determination.*

#### **Right of Appeal**

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

**Signed**                      on behalf of the consent authority

Signature \_\_\_\_\_  
Name                      Alex Keller

Date                      25 March 2010

