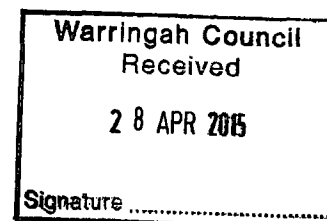
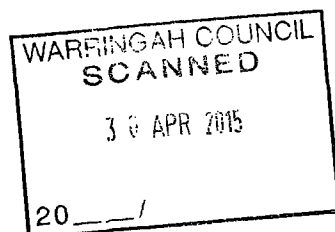


15 April 2015

Warringah Council
Civic Centre 725 Pittwater Rd
DEE WHY NSW 2099



Dear Sir/Madam

Re: MOD2015/0059 – Modify conditions of consent.

I write to express my opinion regarding the above matter.

This MOD2015/0059 (March 2015) is a revised application of MOD2014/0186 submitted in September 2014 but subsequently withdrawn by the applicant.

The following is my list of objections to the application MOD2015/0059:

- 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 (formally Snake Gully Crescent but now referred to as Lakeshore Drive) 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 MOD2015/0059 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 MOD2015/0059 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 MOD2015/0059 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 is for Emergency access only.

3. In accordance with Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979 (EPAA) considerations in determining the application should consider the following matter:
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

The EPAA defines "**environment**" to include *'all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.'*

The application for MOD includes a document named 'Report Statement of Environmental Effects from CD' which is a letter from BBC Consulting Partners dated 5th March **2014** (assumed to have meant to be **2015**).

In this letter the author addresses Section 79C(1)(b) of the EPAA as follows:

(b) Environmental, Social and Economic Impacts	The proposed modifications will also not result in any unreasonable environmental, social or economic impacts as discussed below. There are minimal new works and no removal of vegetation required. The only works required would be the installation of controls to the existing boom gate and change to existing signage.
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I strongly disagree with the above statement that *'The proposed modifications will also not result in any unreasonable environmental, social or economic impacts...'* for the following reasons:

1. Residential Amenity Impacts

- (i) Increased traffic volume. – The MOD application includes a Traffic Assessment Report prepared by Varga Traffic Planning Pty Ltd. In order to understate the increase traffic volume the report has included assumptions and interpretations that are either incorrect or misleading.

In the section 'Traffic Implications of the proposal' the author has stated:

It is also likely that a further 25% of the projected future traffic generation potential will comprise trips to the local Collaroy Plateau shopping centre to access the supermarket, chemist, bottle shop, newsagency, bank or other specialty shops. The shortest and most direct route between *The Dardanelles* and the local shops is provided via Lakeshore Drive and Lantana Avenue.

'The shortest and most direct route between The Dardenelles and the local shops' would be via James Wheeler Place to the local 'Wheeler Heights' shops on South Creek Road (rather than the Collaroy Plateau shopping centre). These shops also provide a supermarket, chemist, bottle shop etc and other speciality shops. This misleading statement was one of the methods used to minimise the calculation of the potential number of vehicles per hour.

The traffic Assessment report was dated 27 February 2015 and the traffic surveys under taken in James Wheeler Place preceded the opening of the popular Narrabeen Lagoon Trail (NLT) which was in late February 2015. The NLT has been a huge success and has seen a substantial increase in the number of vehicles entering James Wheeler Place and parking. The road is often reduced to a single lane as cars are parked on both sides of the road. The potential additional traffic that this MOD application would bring would lead to added congestion and increased risk of car/pedestrian impacts. The majority of the vehicles that arrive are young families with kids, unloading bikes to use the NLT.

- (ii) Increased noise as a result of the increased traffic volume.

- (iii) 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.

2. Economic Impacts – there is great concern from the residents of both James Wheeler Place and some residents of the Dardenelles residential units that an increase in traffic will lead to a loss in property value.

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

Yours faithfully

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