

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0294
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Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 2611 DP 752038, 1 / 0 Veterans Parade WHEELER HEIGHTS NSW 2097
Proposed Development:	Modification of development consent DA2008/0802 for Demolition of the existing 34 dwellings and the re- construction of 34 new dwellings in Cutler Village at the RSL War Veterans Village.
Zoning:	LEP - Land zoned SP1 Special Activities LEP - Land zoned E2 Environmental Conservation
Development Permissible:	Yes - Zone SP1 Special Activities Yes - Zone E2 Environmental Conservation
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	RSL Lifecare Limited
Applicant:	TSA Management Pty Ltd

Application lodged:	23/12/2015
Application Type:	Local
State Reporting Category:	Other
Notified:	21/01/2016 to 05/02/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 2611 DP 752038 , 1 / 0 Veterans Parade WHEELER HEIGHTS NSW 2097
Detailed Site Description:	he 'subject site' is commonly known as the 'RSL War Veterans Retirement Village' located on Veterans Parade, Wheeler Heights. The site is approximately 44 hectares in area and occupies land (comprising 6 Lot titles) between Veterans Parade, Lantana Avenue and an unmade portion of South Creek Road. The site contains a range of aged care and war veteran's accommodation for approximately 1200 residents, including; self care dwellings, assisted care hostels, and nursing homes. The form of accommodation varies from one and two storey detached bungalows to a large nursing home and hostel buildings of up to five storeys in height. The buildings are dispersed amongst landscaped areas, bushland and internal roads. This application relates to a section of land located at the end of Colooli Road, known as Cutler Village, which forms part of the RSL Lifecare Retirement Village at Narrabeen. The area that the proposal pertains to is currently occupied by approximately 120 dwellings, which are located adjacent to the eastern boundary of the site and accessed via the public road known as Colooli Road and internally the Village road known as Cutler Circuit. Surrounding development outside the Village is characterised by residential dwellings to the east and south, bushland within Jamieson Park to the north and northwest and Narrabeen. Lake to the north and west.

Map:



SITE HISTORY

Development Application No. DA2008/0802

Development Consent No. DA2008/0802 was approved by Warringah Council on 9 December 2009 for the demolition of existing 34 dwellings and the re-construction of 34 new dwellings in the Cutler Village precinct of the RSL War Veterans Retirement Village at Veterans Parade, Wheeler Heights.

PROPOSED DEVELOPMENT IN DETAIL

The proposed modifications include alterations to the internal layouts of 24 units to comply with current accessibility codes, improve the floor space and layout meet current expectations of resident amenity. Specifically, the proposal includes:

- Modifying all pathways and internal configuration of the units;
- modify the external material of the roofs and walls;
- The overall building area (internal areas, balconies and garages) reduces slightly in size.

Access and Parking

Access to garages remains generally in the same location with the exception of some units:

- Units 18 to 20 are to be accessed from Cutler Circuit rather than the unformed extension of Colooli Road resulting in retention of trees within the road reserve;
- Units 31 and 32 are now provided with their own garages rather than a combined garage as approved.
- The location of access to units 21, 33 and 34 has been modified slightly.

There is no change to overall parking spaces, number of units or number of bedrooms.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of

the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2008/0802 in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2008/0802.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.

Section 96(1A) - Other Modifications	Comments
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this 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 relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No Additional information was requested.
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 environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions	See discussion on “Public Exhibition” in this report.

Section 79C 'Matters for Consideration'	Comments
made in accordance with the EPA Act or EPA Regs	
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections subject to standard conditions only.
Development Engineers	The proposed modifications do not impact on Council's road or drainage infrastructure. No objection to approval and no additional or modified conditions are recommended.
Environmental Investigations (Acid Sulphate)	Acid Sulphate management plan is not required because it is not likely that the proposed development will disturb acid sulphate soil or the associated water table
Landscape Officer	No objections to the proposed modifications.
Natural Environment (Biodiversity)	The modification to the approved plans do not significantly impact on the native vegetation in the area. Landscaping species chosen are not likely to cause impacts on bushland adjoining the development site.
Natural Environment (Coastal)	As the proposal is not impacted by coastal processes there is no objection to the proposed modifications.
Natural Environment (Flood)	The proposed development is outside the adopted Flood Planning Level extent. No flood related development controls applied.
Natural Environment (Riparian Lands/Creeks)	Riparian Assessment complete. Some sections of the proposed site are tagged by the 100 metre wetland buffer and riparian land. The modifications to the original DA2008/0802 will have minimal

Internal Referral Body	Comments
	impact on the wetlands and watercourses located downstream of the development. As the modifications to the original development application are minor changes to the building footprints and the majority of the modifications are for internal works. Recommendation: No objection to approval and no conditions are recommended.
Parks, reserves, beaches, foreshore	
Traffic Engineer	There is no objection to the proposed modifications with regard to traffic.
Waste Officer	No objection to the proposed development.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Integrated Development - NSW Rural Fire Service – head office	The application (as modified) was referred to NSW Rural Fire Services as integrated Development in accordance with section 96 of the 'Environmental Planning and Assessment Act 1979. The NSW RFS has issued an amended conditions, which have been incorporated within the recommendation of this report.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

Amended BASIX certificates has been submitted with the application. A condition has been included in the recommendation of the original report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environment Plan 2011

Is the development permissible?	Zone SP1: Yes Zone E2 : Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
5.5 Development within the coastal zone	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes
Schedule 5 Environmental heritage	Yes

Warringah Development Control Plan

Built Form Controls

The proposed modification does not alter the approved built form controls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
Front Boundary Setbacks - SP1	Yes	Yes
War Veterans Retirement Village: Veterans Parade, Wheeler Heights	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Residential accommodation - 3 or more dwellings	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
F3 SP1 Special Activities	Yes	Yes
War Veterans Village, Narrabeen	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval Modification Application No. Mod2015/0294 for Modification of

development consent DA2008/0802 for Demolition of the existing 34 dwellings and the re- construction of 34 new dwellings in Cutler Village at the RSL War Veterans Village. on land at Lot 2611 DP 752038,1 / 0 Veterans Parade, WHEELER HEIGHTS, subject to the conditions printed below:

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA1 (Rev C)	December 2015	Humel Archiect
DA08 - DA13 (Rev A)	December 2015	Humel Architect
DA49 - DA60 (Rev A)	December 2015	Humel Architect
Exterior Finishes	23 December 2015	Humel Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Assessment Repor	16 December 2015	Blackett Maguire Goldsmith

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Management Plan	23/12/2013	Humel Architect

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

B. Add Condition <1A - Compliance with Other Department, Authority or Service Requirements> to read as follows:

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

Other Department, Authority or Service	eServices Reference
NSW Rural Fire Service	Response NSW RFS

(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

other Department, Authority or Body's. (DACPLB02)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed

Lashta Haidari, Senior Development Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

	Notification Document	Title	Date
	2016/018765	Notification Map	20/01/2016

ATTACHMENT C

Reference Number	Document	Date
 2016/003102	Report - Geotechnical Landslip Assessment	14/12/2015
 2016/003107	Report - Access Design Certificate	14/12/2015
 2016/002989	Report - BASIX Certificate - Unit 5 BASIX Package - Cutler Village	16/12/2015
 2016/002999	Report - BASIX Certificate - Unit 7 BASIX Package - Cutler Village	16/12/2015
 2016/003004	Report - BASIX Certificate - Unit 8 BASIX Package - Cutler Village	16/12/2015
 2016/003007	Report - BASIX Certificate - Unit 10 BASIX Package - Cutler Village	16/12/2015
 2016/003011	Report - BASIX Certificate - Unit 11 BASIX Package - Cutler Village	16/12/2015
 2016/003016	Report - BASIX Certificate - Unit 12 BASIX Package - Cutler Village	16/12/2015
 2016/003020	Report - BASIX Certificate - Unit 13 BASIX Package - Cutler Village	16/12/2015
 2016/003022	Report - BASIX Certificate - Unit 14 BASIX Package - Cutler Village	16/12/2015
 2016/003030	Report - BASIX Certificate - Unit 15 BASIX Package - Cutler Village	16/12/2015
 2016/003034	Report - BASIX Certificate - Unit 16 BASIX Package - Cutler Village	16/12/2015
 2016/003037	Report - BASIX Certificate - Unit 17 BASIX Package - Cutler Village	16/12/2015
 2016/003039	Report - BASIX Certificate - Unit 18 BASIX Package - Cutler Village	16/12/2015
 2016/003042	Report - BASIX Certificate - Unit 19 BASIX Package - Cutler Village	16/12/2015
 2016/003044	Report - BASIX Certificate - Unit 20 BASIX Package - Cutler Village	16/12/2015
 2016/003045	Report - BASIX Certificate - Unit 21 BASIX Package - Cutler Village	16/12/2015
 2016/003050	Report - BASIX Certificate - Unit 22 BASIX Package - Cutler Village	16/12/2015
 2016/003053	Report - BASIX Certificate - Unit 26 BASIX Package - Cutler Village	16/12/2015
 2016/003055	Report - BASIX Certificate - Unit 31 BASIX Package - Cutler Village	16/12/2015
 2016/003059	Report - BASIX Certificate - Unit 32 BASIX Package - Cutler Village	16/12/2015
 2016/003061	Report - BASIX Certificate - Unit 33 BASIX Package - Cutler Village	16/12/2015
		

2016/003064	Report - BASIX Certificate - Unit 34 BASIX Package - Cutler Village	16/12/2015
 2016/003065	Report - BASIX Certificate - Unit 35 BASIX Package - Cutler Village	16/12/2015
 2016/003084	Report - BASIX Certificate - Unit 36 BASIX Package - Cutler Village	16/12/2015
 2016/003096	Report - BASIX Certificate - Unit 70 BASIX Package - Cutler Village	16/12/2015
 2016/003160	Report - BCA Assessment	16/12/2015
 2016/003164	Report - Bushfire Hazard Assessment	17/12/2015
 2016/003169	Report - Waste Management Plan	17/12/2015
 2016/002973	Plans - Notification	18/12/2015
 2016/002978	Report Statement of Environmental Effects	22/12/2015
 MOD2015/0294	Lot 1/ Veterans Parade WHEELER HEIGHTS NSW 2097 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	23/12/2015
 2015/383749	invoice for ram applications - TSA Management Pty Ltd	23/12/2015
 2015/383770	DA Acknowledgement Letter - TSA Management Pty Ltd	23/12/2015
 2016/002909	Modification Application Form	06/01/2016
 2016/002917	Applicant Details	06/01/2016
 2016/002947	Plans - Survey	06/01/2016
 2016/003472	Plans - Stamped - Unit 5 to Unit 14	06/01/2016
 2016/003475	Plans - Stamped - Unit 15 to Unit 22	06/01/2016
 2016/003505	Plans - External	06/01/2016
 2016/003496	Plans - Site	06/01/2016
 2016/003489	Plans - Stamped - Unit 23 to Unit 70	06/01/2016
 2016/003511	Plans - Master Set	06/01/2016
 2016/006530	DA Referral Assessment - Environmental Investigations (Acid Sulphate) - Assessment Referral - Mod2015/0294 - 1 / 0 Veterans Parade WHEELER HEIGHTS NSW 2097	06/01/2016
 2016/006600	File Cover	11/01/2016
 2016/006652	Referral to AUSGRID - SEPP - Infrastructure 2007	11/01/2016
 2016/006665	Referral to RFS head office	11/01/2016
 2016/007110	Natural Environment Referral Response - Biodiversity	11/01/2016
 2016/008637	Building Assessment Referral Response	12/01/2016
 2016/009962	Waste Referral Response	13/01/2016
 2016/010297	Natural Environment Referral Response - Coastal	13/01/2016
 2016/010913	Traffic Engineer Referral Response	13/01/2016
 2016/011117	Natural Environment Referral Response - Riparian	14/01/2016
 2016/013125	Natural Environment Referral Response - Flood	15/01/2016
 2016/016818	Development Engineering Referral Response	20/01/2016

	2016/018765	Notification Map	20/01/2016
	2016/019044	Environmental Investigations Referral Response - acid sulfate soils	20/01/2016
	2016/031643	Parks, Reserves and Foreshores Referral Response	01/02/2016
	2016/076870	Landscape Referral Response	10/03/2016
	2016/078709	RFS submission - Lot 1 Veterans Parade Wheeler Heights	14/03/2016