

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2018/0158
<b>Responsible Officer:</b>	Lashta Haidari
<b>Land to be developed (Address):</b>	<p>Lot 3 DP 212382, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot B DP 371110, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot A DP 371110, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 2 DP 212382, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 212382, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 209503, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 307937, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 3 DP 307937, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot A DP 416469, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 504212, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 10 DP 231418, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 11 DP 231418, 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot A DP 339410, 884 - 896 Pittwater Road DEE WHY NSW 2099</p>
<b>Proposed Development:</b>	Modification of Development Consent DA2016/0705 granted for a mixed use development to carry out minor alterations and install additional air conditioning condensers
<b>Zoning:</b>	<p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p> <p>Warringah LEP2011 - Land zoned B4 Mixed Use</p>
<b>Development Permissible:</b>	Yes

<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Karimbla Properties (No41) Pty Ltd
<b>Applicant:</b>	Karimbla Constructions Services (NSW) Pty Ltd

<b>Application lodged:</b>	28/03/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Mixed
<b>Notified:</b>	11/04/2018 to 27/04/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	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 the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

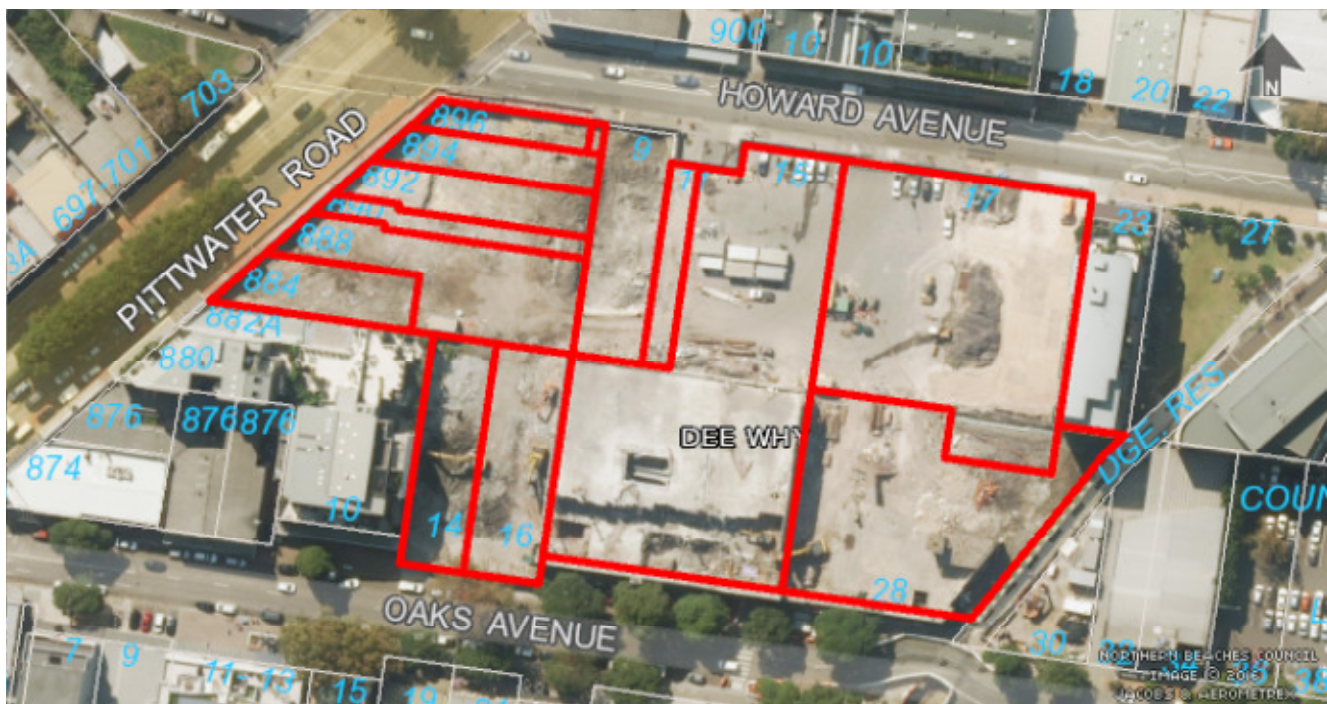
Warringah Local Environmental Plan 2011 - Part 7 Dee Why Town Centre

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 3 DP 212382 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot B DP 371110 , 884 - 896 Pittwater Road DEE WHY NSW 2099
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	<p>Lot A DP 371110 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 2 DP 212382 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 212382 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 209503 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 307937 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 3 DP 307937 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot A DP 416469 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 1 DP 504212 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 10 DP 231418 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot 11 DP 231418 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p> <p>Lot A DP 339410 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p>
<b>Detailed Site Description:</b>	<p>The site is irregular in shape and is bound by Howard Avenue to the north, Oaks Avenue to the south and Pittwater Road to the west. The site is further bound by shared boundaries between itself and several other development sites both to the east and south-west. The site has a total area of 14.466m<sup>2</sup>.</p> <p>The site is centrally located within the Dee Why Town Centre as defined in the Dee Why Town Centre Master Plan 2013 (DYTC Masterplan).</p> <p>The existing topography of the site slopes from west to east, with a cross-fall of approximately 4m from the highest point on the south-western corner of the Pittwater Road frontage, to the lowest point at the north-eastern corner of the site on Howard Avenue.</p>

Map:



## SITE HISTORY

Development Application (DA2016/0705) for the redevelopment of the site was approved by the Sydney Planning Panel on 10 May 2017. The approved development comprised of:

- Construction of two buildings comprising of 350 residential apartments
- Three levels of basement car parking to accommodate 1,035 car parking spaces;
- Ground and first-floor level retail and commercial floor space including a supermarket tenancy
- Child care centre for 130 children at first-floor level; and
- New publicly accessible plaza

## PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to Modify Development Consent No. 2016/0705 in the following manner:

### Level 4:

- The introduction of air conditioning condensers to the podium roof level of Building C and resulting changes to the landscaped garden at this level.

### Level 8:

- Reconfiguration of internal areas within Level 8 of Building A to allow for reduced plant room and the introduction of a new storage area in its place.
- Enclosure of a balcony within Unit 801 (Level 8) to create a study.
- Reconfiguration of Unit 802 (Level 8) resulting in the relocation of balcony and bedroom.

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 C.

## 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 DA2016/0705, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on the 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	<p><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact, as proposed amendments will not result in any additional environmental impact beyond that which would result from the approved development. The proposed amendments are relatively minor modifications and there no changes to the external configuration of the approved development.</p>
(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 proposed development is substantially the same as that approved pursuant to DA2016/0705 as the proposed modification would not alter the use, the bulk and scale of the building or its built form. Generally, the appearance of the approved development would remain unchanged.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the</p>	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 4.55(1A) - Other Modifications	Comments
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	
(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 4.15 Assessment

In accordance with Section 4.55(3) of the Environmental Planning and Assessment Act 1979, in determining a modification application made under Section 4.55 the consent authority must 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 relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See the discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15(1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;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.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation is not required for this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested</p>

Section 4.15 'Matters for Consideration'	Comments
	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 4.15 (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 have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The proposed modification does not change the suitability of the site of the approved development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See the discussion on “Public Exhibition” in this report.
Section 4.15(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 the relevant 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 to proposed amendments.
Environmental Health (Industrial)	<p>The proposal is to install an air conditioning condensers to the podium roof level of Building C.</p> <p>Environmental Health recommended that suitable measures are implemented to ensure the introduction of the condenser will comply with the POEO Act 1997 and Industrial Noise Policy/Noise Policy for Industry (2017) to ensure offensive noise is not created</p>

Internal Referral Body	Comments
	to neighbouring properties as well as residence within the residential buildings of the property.

## 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 65 - Design Quality of Residential Apartment Development

The SEPP requires an assessment and consideration of any application for residential flat development against the 9 Design Quality Principles and the matters contained within the associated "Apartment Design Guide".

This application, as modified, does not materially alter the design of the development such that it deviates from the original assessment and conclusions made under DA2016/0705. The proposed modification relates to internal changes only is considered to satisfy the requirements and objectives of the SEPP and no further assessment is made or required.

## Warringah Local Environmental Plan 2011

Is the development permissible?	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
Part 1 Preliminary	Yes
Land Use Table	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes



Clause	Compliance with Requirements
6.4 Development on sloping land	Yes
Part 7 Dee Why Town Centre	Yes
7.3 Objectives for development within Dee Why Town Centre	Yes
7.4 Development must be consistent with objectives for development and design excellence	Yes
7.5 Design excellence within Dee Why Town Centre	Yes
7.8 Site B Oaks Avenue above podium elements	Yes
7.10 Allowance for external ancillary plant and roof access	Yes

#### Detailed Assessment

#### **Part 7 Dee Why Town Centre**

The Dee Why Town Centre “Site B” development was approved under DA2016/0705. No changes are proposed to the built form approved under that DA. The proposal will not alter the architectural character or appearance of the approved buildings. The proposed modification will not alter compliance of the approved development with Part 7 of WLEP 2011.

#### **Warringah Development Control Plan**

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part D Design	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

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or

their habitats.

## **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 to Modification Application No. Mod2018/0158 for Modification of Development Consent DA2016/0705 granted for a mixed use development to carry out minor alterations and install additional air conditioning condensers on land at Lot 3 DP 212382,884 - 896 Pittwater Road, DEE WHY, Lot B DP 371110,884 - 896 Pittwater Road, DEE WHY, Lot A DP 371110,884 - 896 Pittwater Road, DEE WHY, Lot 2 DP 212382,884 - 896 Pittwater Road, DEE WHY, Lot 1 DP 212382,884 - 896 Pittwater Road, DEE WHY, Lot 1 DP 209503,884 - 896 Pittwater Road, DEE WHY, Lot 1 DP 307937,884 - 896 Pittwater Road, DEE WHY, Lot 3 DP 307937,884 - 896 Pittwater Road, DEE WHY, Lot A DP 416469,884 - 896 Pittwater Road, DEE WHY, Lot 1 DP

504212,884 - 896 Pittwater Road, DEE WHY, Lot 10 DP 231418,884 - 896 Pittwater Road, DEE WHY, Lot 11 DP 231418,884 - 896 Pittwater Road, DEE WHY, Lot A DP 339410,884 - 896 Pittwater Road, DEE WHY, subject to the conditions printed below:

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

a) Modification Approved Plans (changes highlighted in Red circles)

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
0007 - GA Ground Level (Revision M)	07/11/2017	Crone Architects
0009 (Revision M)	07/11/2017	Crone Architects

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Statement of Environmental Effects	30 January 2018	Meriton

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

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

**b) Add new Condition 1A <Noise Impact > to read as follows**

Any noise generated from the condenser shall not exceed more than 5dB(A) above the background level when measured from property boundary and individual units within the development site. Any noise generated from the condenser needs to comply with the Environment Protection Authority's NSW Industrial Noise Policy/Noise Policy for Industry (2017) and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive (DACHPGOG5)

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Lashta Haidari, Principal Planner**

The application is determined under the delegated authority of:



**Steven Findlay, Manager Development Assessments**

## **ATTACHMENT A**

No notification plan recorded.

## **ATTACHMENT B**

No notification map.

## ATTACHMENT C

Reference Number	Document	Date
 2018/208986	Plans - Landscape	15/03/2018
 2018/208978	ASIC - Current Extract	20/03/2018
 2018/208984	Report - Statement of Environmental Effects	21/03/2018
 MOD2018/0158	9 Howard Avenue DEE WHY NSW 2099 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	28/03/2018
 2018/207172	DA Acknowledgement Letter - Karimbla Constructions Services (NSW) Pty Ltd	28/03/2018
 2018/208969	Modification Application Form	29/03/2018
 2018/208972	Applicant Details	29/03/2018
 2018/209019	Plans - Modified - Master Set	29/03/2018
 2018/209031	Plans - Modified - External	29/03/2018
 2018/209040	Plans - Modified - Internal	29/03/2018
 2018/228210	Building Assessment - Fire and Disability upgrades - Assessment Referral - Mod2018/0158 - 884 - 896 Pittwater Road DEE WHY NSW 2099-PR	11/04/2018
 2018/230264	Environmental Health (Industrial) - Assessment Referral - Mod2018/0158 - 884 - 896 Pittwater Road DEE WHY NSW 2099	11/04/2018
 2018/228100	ARP Notification Map	11/04/2018
 2018/228174	DA Acknowledgement Letter (not integrated) - Karimbla Constructions Services (NSW) Pty Ltd	11/04/2018
 2018/228287	ARP Notification Map	11/04/2018
 2018/228367	Notification Letter - 99	11/04/2018
 2018/252211	Environmental Health Referral Response - industrial use	23/04/2018
 2018/256515	Building Assessment Referral Response	26/04/2018
 2018/266231	Environmental Health (Industrial) - Assessment Referral - Mod2018/0158 - 884 - 896 Pittwater Road DEE WHY NSW 2099	30/04/2018
 2018/266293	Environmental Health (Industrial) - Assessment Referral - Mod2018/0158 - 884 - 896 Pittwater Road DEE WHY NSW 2099	30/04/2018
 2018/262180	Environmental Health Referral Response - industrial use	30/04/2018