

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2017/0326
Responsible Officer:	Lashta Haidari
Land to be developed (Address):	<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 7 DP 8172, 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>
Proposed Development:	Modification of Development Consent DA2017/0576 granted for fitout works for an approved child care centre, increase in children numbers and new operating hours
Zoning:	<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>

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Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Karimbla Properties (No41) Pty Ltd
Applicant:	Karimbla Constructions Services (NSW) Pty Ltd

Application lodged:	17/12/2017
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	12/01/2018 to 30/01/2018
Advertised:	13/01/2018
Submissions Received:	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 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 Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

<p>Property Description:</p>	<p>Lot 3 DP 212382 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot B DP 371110 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot A DP 371110 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 2 DP 212382 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 1 DP 212382 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 1 DP 209503 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 7 DP 8172 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 1 DP 307937 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 3 DP 307937 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot A DP 416469 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 1 DP 504212 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 10 DP 231418 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot 11 DP 231418 , 884 - 896 Pittwater Road DEE WHY NSW 2099 Lot A DP 339410 , 884 - 896 Pittwater Road DEE WHY NSW 2099</p>
<p>Detailed Site Description:</p>	<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.</p> <p>The site has a total area of 14.466m².</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 included a childcare centre at Level 1 of the eastern building. Internal fit-out details were not included in the original DA.

Accordingly, a subsequent DA (DA2017/0576) for the use and fit out of the childcare centre and increase the children number from 130 - 159 kids was submitted to Council. The DA was approved by Council on 2 August 2017 subject to conditions. Condition No 3 of Development Consent (DA2017/0576) restricted the capacity of the centre to 130 children. Council's assessment indicated that adequate parking was only available for 130 children, being the capacity of the centre used as the basis of parking calculations which supported DA2016/0705.

DA2017/0646 Change of Use from Office Space to Child Care Centre

DA2017/0646 was approved on 13 October 2017. It involves the change of use of space contained at Level 1 of the western building of the development approved under DA2016/0705 from office space to a childcare centre with capacity for up to 156 children. Condition 14 of the consent requires the allocation of 30 car spaces within the Site B development for use by the childcare centre.

This consent has now been surrounded by the Applicant.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify Development Consent No.DA2017/0576, specifically by modifying Condition No. 3 of the approved consent to allow for an increase in the capacity of the approved childcare centre by additional 29 kids.

The applicant has indicated that the internal and external spaces of the centre were designed to accommodate a maximum 159 children; adequate space is available within the internal and external areas of the centre to allow for this number of children.

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 DA2017/0576, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(2) - 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 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 DA2017/0576.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2017/0576 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental
(i) the regulations, if the regulations so require,	

Section 4.55(2) - Other Modifications	Comments
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	Planning and Assessment Regulation 2000, Warringah Environment Plan 2011 and Warringah Development Control Plan.
(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.	See the discussion on "Notification & Submissions Received" in this report.

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 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)(iiia) – 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&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>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.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent</p>

Section 4.15 'Matters for Consideration'	Comments
	authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.
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 not 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 site is considered suitable for the proposed 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
Traffic Engineer	<p>This application proposes to increase the child care centre capacity within the 'Meriton site' 884-896 Pittwater Road, Dee Why (eastern tower). Current maximum number permitted under the former DA approval was 130 children, and the current application proposes for a maximum of 159 children.</p> <p>The traffic report accompanying this application does not detail where the extra 6 parking spaces would be located or how they will be reallocated from the previous parking layout. Any additional spaces identified for the child care centre should be in close proximity to the</p>

Internal Referral Body	Comments
	<p>elevators leading to the centre entrance. The reallocation of parking will be required to be provided prior to commencement.</p> <p>As the development application is based on previous approval of 130 children, the parking generation based on 130 children was deemed acceptable and has been included during the creation of the microsimulation modelling of the Dee Why Town Centre road network. The applicant's traffic report makes reference to an additional 17 vehicles per hour and 15 vehicles per hour during the AM and PM peak periods. Due to the concrete median construction in Howard Avenue, it is expected that the majority of the traffic will utilise the vehicular driveway in Oaks Avenue.</p> <p>Whilst the additional vehicle trips resulting from the proposed increase in capacity will be minor compared to the overall number of peak hour trips, there is still some level of concern regarding the driveway layout in Oaks Avenue which was the subject of discussions during the assessment of the approved development application for the entire 'Meriton' development DA2016/0705.</p> <p>As the effects of the additional vehicle trips will be relatively small compared to the overall peak hour trips from the development, therefore, the proposal to increase child care capacity can be supported.</p>

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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether the land is contaminated. The potential for contamination within the site was assessed as part of the original DA for the site (DA2016/0705). This included detailed consideration of the suitability of the site for childcare centre use, which confirmed that the site is suitable for a child care centre.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of a 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 original 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 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
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
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
7.12 Provisions promoting retail activity	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
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
D18 Accessibility	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 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

C3 Parking Facilities

The Warringah Development Control Plan (DCP) 2011 requires parking for child care centre uses to be provided at the rates shown listed:

Proposed Child Care Centre 1 space for every 4 children (159 Kids)

The approved contains three levels of basement parking containing a total of 1,035 parking spaces.

The approved Development (DA2016/0705) allowed 24 car parking spaces to be allocated to the approved childcare centre, which was based on the approved trading hours of Monday - Friday for 130 children. The proposed additional 29 kids would require an additional seven (7) parking spaces.

The assessment by Council's Traffic Consultant allowed a discounted parking rate (25% reduction) in

car parking on the basis that the facility is located within a Town Centre and is part of a mixed-use development, and the car parking for the childcare can be used by the retail uses during the weekend.

This 25% reduction in the DCP rate is also consistent with the proposed parking provision for the Dee Why Town centre and found to be acceptable by Council's Traffic Engineer. On this basis, the reduction would reduce the DCP requirement to six (6) parking spaces (when rounding up to the nearest whole number). In this regard, the allocation of an additional six (6) parking spaces within the basement car park will satisfactorily address the requirement of this Clause.

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. Mod2017/0326 for Modification of Development Consent DA2017/0576 granted for fitout works for an approved child care centre, increase in children numbers and new operating hours 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 7 DP 8172,884 - 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:

A. Modify Condition <3 - Child Care Centre Operation> to read as follows:

The maximum capacity for the Child Care Centre at any one time shall be restricted to 159 children.

Reason: To ensure that adequate parking is provided to service the development onsite (DACTRBOC1)

B. Modify Condition <13 - Parking Allocation and Availability for the Child Care Centre> to read as follows:

Thirty (30) car parking spaces are to be provided for the Child Care Centre and located close to the elevator which provides direct access to the child care centre facility. The car parking spaces shall be conspicuously signposted that they are allocated to the Child Care Centre for the approved operating times and days of the centre, with line marking to restrict its use for the Child Care Centre pick-up/drop-off activities during its operation times and days.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim/final Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

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

	Notification Document	Title	Date
	Notification Map	11/01/2018	

ATTACHMENT C

Reference Number	Document	Date
 2017/531141	Report - Traffic Impact Statement (Child Care Centre - Eastern Tower)	28/11/2017
 2017/531139	Report – Statement of Environmental Effects	29/11/2017
 MOD2017/0326	884-896 Pittwater Road DEE WHY NSW 2099 - Section 96 Modifications - Section 96 (2) Environmental Impact	17/12/2017
 2017/525680	DA Acknowledgement Letter - Karimbla Constructions Services (Nsw) Pty Ltd	17/12/2017
 2017/531130	Modification Application Form	19/12/2017
 2017/531138	Applicant Details & ASICS	19/12/2017
 2018/013922	Development Application Advertising Document - Karimbla Constructions Services (Nsw) Pty Ltd	05/01/2018
 2018/048987	Notification Letter - Mod	11/01/2018
 2018/048988	DA Acknowledgement Letter (not integrated) - Karimbla Constructions Services (Nsw) Pty Ltd	11/01/2018
 2018/048990	Notification Map	11/01/2018
 2018/061194	SIDRA File	16/01/2018
 2018/089144	Traffic Engineer Referral Response	01/02/2018
 2018/144588	Traffic Engineer Referral Response 2	01/03/2018
 2018/178805	Traffic Engineer Referral Response	16/03/2018