

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/0109
<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 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>
<b>Proposed Development:</b>	Use of Premises as a Restaurant
<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> <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>	25/01/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	06/02/2018 to 22/02/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 437,750.00
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## 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

<b>Property Description:</b>	Lot 3 DP 212382 , 884 - 896 Pittwater Road DEE WHY
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	<p>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><b>Detailed Site Description:</b></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 14.466m<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 to allow for the comprehensive redevelopment of the site for mixed-use accommodated within two buildings was approved by the Sydney Planning Panel on 10 May 2017. The application involved the construction of:

- Construction of two buildings of 18 storeys and 16/17 storeys
- 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
- New publicly accessible plaza

Development Application DA2017/0546 was approved by Council on 1 September 2017 for Installation of Business Identification, Building Identification and Directional Signage

## PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the internal fitout and use of retail Unit 5 situated at ground floor level of the western building within the approved Dee Why Town Centre Site B as a restaurant for Guzman and Gomez.

The proposal involves undertaking fitout works including kitchen area, wet areas, garbage storage facilities, food storage areas, seating areas and details of mechanical ventilation.

### Operation Hours are:

7 am and 11 pm Mondays to Sundays

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:

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&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;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. Additional information was submitted to address the issue in relation to the acoustic impact and ventilation system of the proposed use.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
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	<p><b>(i) Environmental Impact</b> 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.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development, as determined in the assessment of DA2016/0705.
Section 4.15 (1) (d) – any	See discussion on “Notification & Submissions Received” in this



Section 4.15 Matters for Consideration'	Comments
submissions made in accordance with the EPA Act or EPA Regs	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	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	No objections to the proposal, comments and recommended conditions in food premise referral of this DA
Environmental Health (Food Premises, Skin Pen.)	<p><b><u>Odour</u></b></p> <ul style="list-style-type: none"> <li>Horizontal design of the Mechanical Ventilation system has not been addressed in the additional information required, however in the original report titled Mechanical Engineering report Kitchen Exhaust Ventilation Dee Why Town Centre dated 3/11/17 states that they will be using a horizontal discharge rather than a vertical discharge due to roof penetration restrictions. Conditions will be provided in relation to this.</li> <li>Modeling methods - the model used by SEED advises that it is better designed for this proposal as a smaller grid area is required to assess the immediate discharge vicinity.</li> <li>Odour Treatment - the additional information states that there</li> </ul>

Internal Referral Body	Comments
	<p>is a 99.7% reduction of odour before dispersal, this is only if correct Electrostatic precipitating [ESP] filter are used. This is part of the Plan of Management and will be conditioned.</p> <ul style="list-style-type: none"> <li>• Odour Management Plan - to be conditioned.</li> <li>• Service agreement shall be provided detailing the servicing and maintenance of the Mechanical Ventilation System.</li> <li>• In the event of malfunction of the ESP system, an emergency alarm is to be provided in each occupancy serviced by the unit.</li> </ul> <p><b><u>Sanitary Facilities</u></b></p> <ul style="list-style-type: none"> <li>• A report submitted titled Sanitary Facilities Calculation Dee Why Town Centre dated 26 April 2018 states that to meet the BCA requirements the sanitary facilities located on parking level 1 will be required to be utilized to achieve compliance with staff members. The ground floor facilities are sufficient to cater for the proposed number of patrons to the retail shops.</li> </ul> <p><b><u>Noise</u></b></p> <p>The Acoustic report titled Dee Why Town Centre Acoustic Assessment - Tenancy 5, 10, 11 and 12. No objection to the proposal subject to the implementations of the all the recommendations outlined in the acoustic report.</p>
Landscape Officer	No objections
NECC (Development Engineering)	No Development Engineering objection is raised to the proposed internal fit out.
NECC (Stormwater & Floodplain Engineering – Flood risk)	<p>The proposed development generally complies with the flood related clauses of the DCP and LEP.</p> <p>No flood related objections.</p>
Traffic Engineer	<p>The DA seeks consent for the fit out of Unit 5 with the floor area of 117m<sup>2</sup> as a food and drink premises to be occupied by Guzman and Gomez with associated outdoor seating.</p> <p>The approved traffic and parking study that was undertaken for the Meriton Development (site B) has been based on the floor area break down which includes 330sqm of restaurant use. The equal parking rate of 1 in 24m<sup>2</sup> has been adopted for the envisaged restaurant floor area and the retail uses.</p> <p>Given that the traffic and parking generating from the proposed restaurant has been considered acceptable in Meriton development traffic study, no objection is raised on the proposal on traffic grounds.</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 restaurants, which confirmed that the site is suitable for the proposed use.

### **SEPP 64 - Advertising and Signage**

The Plans submitted with the application indicated signage for the proposed use, however, the applicant is not seeking approval for the signage and has indicated that the external signage will be consistent with the tenant ID signage approved for the site DA2017/0546 for the site.

### **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 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
Part 6 Additional Local Provisions	Yes
6.3 Flood planning	Yes
Part 7 Dee Why Town Centre	Yes
7.3 Objectives for development within Dee Why Town Centre	Yes
7.11 Town Square and pedestrian connections	Yes
7.12 Provisions promoting retail activity	Yes
7.13 Mobility, traffic management and parking	Yes

## Warringah Development Control Plan

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
Part E The Natural Environment	Yes	Yes
E11 Flood Prone Land	Yes	Yes

### Detailed Assessment

#### **C3 Parking Facilities**

A total of 1,035 parking spaces are provided for the Dee Why Town Centre Site B development as a whole, as required under DA 2016/705. The retail tenancy will take its requirements from that total allocation for the retail component of the development (523 retail spaces available).

#### **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**

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 437,750		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 4,159
Section 94A Planning and Administration	0.05%	\$ 219
Total	1%	\$ 4,378

#### **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 Development Consent to DA2018/0109 for Use of Premises as a Restaurant 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:

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### 1. **Approved Plans and Supporting Documentation**

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

#### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Location Plan (Drawing No, 0007) Revision L	19/04/2017	Crone Architects

A-00	05/10/17	Morris co-design
A-01a, A01b, A-01c, A-02, A-03, A-06, A-07, A-08, A-12, A-15, A-22, A-24, and A-25	1/11/17	Morris co-design
A-04, A-05, A-09, A-10, A-11, A-13, A-14, A-16, A-17, A-18, A-19, A-20, A-21, A-23, A-26, A-27, A-29, A-30, A-31, A-32, and A-33	05/10/17	Morris co-design
A-28	31/07/17	Morris co-design

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:

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

2. **Maximum Seating Numbers**

The maximum number of seats for restaurant patrons is to be limited to 77 at all times, including internal (max 46 seats) and external areas (max 31 seats).

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

3. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or

demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolishedThe person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.



- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
- Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2008
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 6. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 437,750.00		
<b>Contributions</b>	<b>Levy Rate</b>	<b>Payable</b>
Total Section 94A Levy	0.95%	\$ 4,158.63
Section 94A Planning and Administration	0.05%	\$ 218.88
Total	1%	\$ 4,377.50

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

## 7. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### 8. **Provision of Sanitary Facilities**

Adequate sanitary facilities are to be provided in accordance with Part F, Volume 2 of the National Construction Code (BCA) for the proposed retail premises.

Fully detailed amended plans and specifications demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate for the premises fit out.

Reason: To ensure adequate sanitary and associated required facilities are provided to the tenancy for patrons/occupants and staff . (DACBCCPCC2)

### 9. **Plans of Kitchen Design, construction and fit out**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

10. **Kitchen Design, construction and fit out of food premises**

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'. Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

Reason: To ensure that the kitchen complies with the design requirements.

11. **Plans of Mechanical ventilation**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

12. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

13. **Acoustic report**

All recommendations made by the consultant in the Acoustic report titled Dee Why Town Centre Acoustic Assessment - Tenancy 5, 10, 11 and 12 dated 4/05/2018 project no. 20160744.13, must be implemented prior to issuing the Occupation Certificate in order to achieve compliance with noted conditions of this consent.

Reason: To protect local amenity and not create offensive noise (DACHPFPOC1)

14. **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

15. **Service agreement**

Prior to release of the Occupation Certificate, the applicant is to enter into a service agreement with a Mechanical Ventilation service provider for the on going maintenance and servicing of the

system as per manufactures instructions.

Reason: To ensure the appropriate operation of mechanical ventilation system and minimise smoke and odour (DACHPFPOC1)

16. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation, and the Smoke and Odour report Prepared by SEED Titled Mechanical Engineering Report Kitchen Exhaust Ventilation Dee Why Town Centre NSW dated 3 November 2017.

Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

17. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

18. **Horizontal Exhaust discharge**

Where the horizontal discharge does not meet criteria assessed for smoke and odour or complaints are received about any nuisances being generated, action is to be taken by the applicant to review any potential nuisance and implement any additional assessment and implement measures necessary to prevent the occurrence of the nuisance.

Reason: To protect public health and amenity. (DACHPGOG1)

19. **Odour Management Plan**

Details of the Odour Management Plan outlined in the correspondence titled Response to Council Regarding Odour Emissions Kitchen Exhaust Systems submitted to Council 8 May 2018 shall be implemented to ensure an offense is not created.

Reason: To protect the environment and surrounding amenity. (DACHPGOG2)

20. **Amenity**

The implementation this Mechanical Ventilation System shall not adversely affect the amenity of the neighborhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour,

steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997. (DACHPGOG3)

21. **Electrostatic Precipitating Filters**

In the event of malfunction of the ESP system, an emergency alarm is to be provided in each occupancy serviced by the unit to notify operator. In the event a malfunction occurs appropriate action is to be undertaken to rectify matter immediately.

Reason: To ensure the appropriate operation of mechanical ventilation system (DACHPGOG4)

22. **Hours of Operation**

**(a) General Hours of Use**

The hours of operation of the restaurant are to be restricted to 7.00am and 11.00pm seven days per week.

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

**(b) Hours of Use of the External Seating Area**

The use of the external seating area is to start no earlier than 8.00am and is to finish no later than 10.00pm seven days per week.

Upon expiration of the permitted hours for the external seating area, all service shall immediately cease and no patrons are to be seated in this area.

Reason: To ensure that the amenity of the residential units above the restaurant is protected. (DACPLG08)

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*


**Steven Findlay, Manager Development Assessments**



## ATTACHMENT A

Notification Plan	Title	Date
 2018/095418	Plan - Notification	05/02/2018

## ATTACHMENT B

Notification Document	Title	Date
 2018/095453	Notification Map	05/02/2018

## ATTACHMENT C

Reference Number	Document	Date
 2018/083309	Report - Annexure 4 - Waste Management	09/06/2016
 2018/083306	Report - Annexure 3 - Traffic Report with Plans	11/05/2017
 2018/083296	Plans - Annexure 2 - Master Set - GYG Dee Why - Final Design Approval	21/12/2017
 2018/083285	Plans - Annexure 1 - Location Plan	16/01/2018
 2018/083281	Report - Statement of Environmental Effects	17/01/2018
 2018/083279	ASIC - Current Extract	24/01/2018
 DA2018/0109	884-896 Pittwater Road DEE WHY NSW 2099 - Development Application - Alterations and Additions	25/01/2018
 2018/080381	DA Acknowledgement Letter - Karimbla Construction Services (NSW) Pty Ltd	25/01/2018
 2018/083262	Development Application Form	29/01/2018
 2018/083264	Applicant Details	29/01/2018
 2018/096548	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099 - PR	05/02/2018
 2018/096616	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099	05/02/2018
 2018/096620	duplicate	05/02/2018
 2018/094619	Request for Further Information - DA2018/0109	05/02/2018
 2018/095418	Plan - Notification	05/02/2018
 2018/095439	DA Acknowledgement Letter (not integrated) - Karimbla Construction Services (NSW) Pty Ltd	05/02/2018
 2018/095453	Notification Map	05/02/2018
 2018/095500	Notification Letter - 340	05/02/2018
 2018/106853	Building Assessment Referral Response	10/02/2018
 2018/107679	Environmental Health Referral Response - commercial use	12/02/2018
 2018/110492	Report - Quantity Surveying Cost for DA2018/0109 - DA2018/0110 - DA2018/0111	13/02/2018
 2018/112583	Natural Environment Referral Response - Flood	13/02/2018
 2018/148004	Report - Odour - MER1	02/03/2018
 2018/192558	Report - Operational Management Plan	22/03/2018
 2018/195288	Environmental Health (Industrial) - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099	22/03/2018

	2018/206241	Landscape Referral Response	28/03/2018
	2018/208143	Environmental Health Referral Response - industrial use	29/03/2018
	2018/259582	Development Engineering Referral Response	27/04/2018
	2018/281310	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099	08/05/2018
	2018/281312	Environmental Health (Industrial) - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099	08/05/2018
	2018/288057	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099	09/05/2018
	2018/296209	Traffic Engineer Referral Response	15/05/2018
	2018/322531	Building Assessment Referral Response	26/05/2018
	2018/332926	Environmental Health Referral Response - commercial use	31/05/2018
	2018/335379	Environmental Health (Industrial) - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099	31/05/2018
	2018/335401	Environmental Health (Food Premises, Skin Pen.) - Assessment Referral - DA2018/0109 - 884 - 896 Pittwater Road DEE WHY NSW 2099	31/05/2018
	2018/333781	Environmental Health Referral Response - commercial use	31/05/2018
	2018/333797	Environmental Health Referral Response - industrial use	31/05/2018