

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2018/0216
<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>	Modification of Development Consent DA2017/0576 granted for Fitout works for an Approved Child Care Centre Increase in Children Numbers and New Operating Hours
<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>

	Warringah LEP2011 - Land zoned B4 Mixed Use Warringah LEP2011 - Land zoned B4 Mixed Use
<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>	03/05/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Other
<b>Notified:</b>	Not Notified
<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

There are no assessment issues.

## SITE DESCRIPTION

<p><b>Property Description:</b></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><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</p>

Map:



## SITE HISTORY

### DA2015/0612 Excavation

DA2015/0612 for drainage and stormwater management works and installation of shoring walls and bulk excavation was approved on 22 December 2015

### DA2016/0705 Mixed Use Development

DA2016/0705 which related to the redevelopment of the site for mixed-use accommodated within two buildings was approved by the Sydney Planning Panel on 10 May 2017. The consent included provision for a childcare centre at Level 1 of the eastern building. Internal fit-out details were not included within DA2016/0705. Accordingly, a separate application seeking consent for the internal fit out of the childcare centre was subsequently lodged with Council (DA2017/0576).

### DA2017/0576 Childcare Centre Fit Out

DA2017/0576 sought approval for the use and fit out of the childcare centre. The DA was approved on 2 August 2017 subject to conditions

## PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify Development Consent No. DA2017/0576 by deleting Condition No. 5 which specifies requirements for the provision of a bond amount of \$10,000 to cover against potential damage to council assets during the construction process.

The childcare fit-out works approved under DA2017/0576 are being undertaken in conjunction with the overall development of the site as approved under DA2016/0705. Condition 5 of DA2017/0576 duplicates the requirements of Condition 6 of DA2015/0612 and Condition 8 of DA2016/0705 resulting in multiple bond amounts being required to be submitted.

Council's Development Engineer has reviewed the proposed modification, who have raised no objection

to the deletion of condition No. 5.

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 4.15(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<b>Yes</b> The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2017/0576.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made	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 4.15(1A) - Other Modifications	Comments
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.	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 (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)(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 in the original consent.</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 in the original 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>

Section 4.15 'Matters for Consideration'	Comments
	(iii) <b>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.
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 was not notified.

## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	Development Engineers raise no objections to the deletion of condition 5, as Council is still withholding onto the bonds related to 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 transportation of materials and equipment to and from the development site, on other Development Consents related to the same property.
NECC (Stormwater & Floodplain Engineering – Flood risk)	The proposed modification to delete Condition 5 of t DA2017/0576 regarding the provision of a bond is not considered to increase flood risk. No flood related objections.

## 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)**

Nil

**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
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes
Part 7 Dee Why Town Centre	Yes

**Warringah Development Control Plan**

Compliance Assessment

Clause	Compliance with Requirements	Consistency with Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part C Siting Factors	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
E11 Flood Prone Land	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. Mod2018/0216 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. Delete Condition No.5 (Security Bond) which read as follows:**

A bond (determined from cost of works) of \$10,000 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.warringah.nsw.gov.au/your-council/forms](http://www.warringah.nsw.gov.au/your-council/forms)).

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

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
 2018/275386	Security Bonds	24/04/2018
 2018/275390	Report - Statement of Environmental Effects	26/04/2018
 2018/275383	ASIC - Company Details	27/04/2018
 MOD2018/0216	884-896 Pittwater Road DEE WHY NSW 2099 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	03/05/2018
 2018/275385	MOD Fees Tax Invoice Receipt	04/05/2018
 2018/275371	Modification Application Form	04/05/2018
 2018/275381	Applicant Details	04/05/2018
 2018/275455	DA Acknowledgement Letter - Karimbla Constructions Services (NSW) Pty Ltd	04/05/2018
 2018/275462	invoice for ram applications - Karimbla Constructions Services (NSW) Pty Ltd	04/05/2018
 2018/287280	Natural Environment Referral Response - Flood	10/05/2018
 2018/328718	Development Engineering Referral Response	30/05/2018