

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1270
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Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 100 DP 1235895, 884 - 896 Pittwater Road DEE WHY NSW 2099
Proposed Development:	Extension of operating hours of approved Commercial Premises
Zoning:	Warringah LEP2011 - Land zoned B4 Mixed Use
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:	27/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	08/08/2018 to 26/08/2018
Advertised:	11/08/2018
Submissions Received:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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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 - D3 Noise

SITE DESCRIPTION

Property Description:	Lot 100 DP 1235895 , 884 - 896 Pittwater Road DEE WHY NSW 2099
Detailed Site Description:	<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.</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. Condition 120 of DA2016/0175 specifies the hours of work permitted for the development as follows:

Hours of Operation

The hours of operation of the development are restricted to the following:

a) Child Care Centre

i) 7 am – 7 pm Monday to Fridays (inclusive).

b) The Ground Floor Retail Tenancies

i) 7 am to 10 pm Monday to Saturday (inclusive),

ii) 7 am to 9 pm on Sundays (inclusive).

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.

This Development Application is seeking an extension of this approved operating hours to allow for an additional 1 hour trading Mondays to Saturdays and 2 hours trading on Sundays.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to extend the operating hours for the retail component of the approved development for Dee Why Town Centre (Site B). The applicant seeking the following operating hours:

- 7 am - 11 pm seven (7) days a week.

The proposed hours involves an extension of one hour Mondays to Saturdays and two hours on Sundays when compared to the already approved operating hours. (The approved trading hours are 7 am – 10 pm Mondays to Fridays and 7 am – 9 pm 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	Warringah Development Control Plan applies to this

Section 4.15 Matters for Consideration'	Comments
development control plan	proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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&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 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>(i) Environmental Impact 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>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact 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.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" 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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

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
Environmental Health (Industrial)	<p>The proposal seeks consent for the operating hours of the approved shopping centre within the Dee Why Town Centre Site B development. Trading hours between 7 am – 11 pm seven days a week are sought. This involves additional trading of one hour Mondays to Saturdays and two hours on Sundays when compared to the currently approved operating hours. (The approved trading hours are 7 am – 10 pm Mondays to Fridays and 7 am – 9 pm Sundays).</p> <p>No physical works are proposed by this application.</p> <p>An acoustic assessment has been completed by Acoustic Logic 16.5.2018 which advises compliance with the EPA guidelines for noise can be achieved subject to strict and numerous recommendations for noise management measures. Compliance with some of these measures rely on timed actions in busy operational conditions and over time may be difficult to manage and enforce especially to externally seated diners.</p> <p>Therefore conditions will be required to enable and support compliant extended trading hours.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Traffic Engineer	<p>The application seeks to amend the operating hours of the approved commercial and retail services on the site. The proposal will increase the operating period by 1-2 hours in the PM. As such, there is no anticipated traffic implications imposed by this alteration.</p> <p>Otherwise there are no physical works.</p> <p>Therefore traffic raise no objection subject to planning requirements.</p>
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been

External Referral Body	Comments
	received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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
Land Use Table	Yes
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes

Warringah Development Control Plan

Compliance Assessment

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

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	Yes	Yes

Detailed Assessment

D3 Noise

An acoustic assessment which considers the extended operating hours has been submitted. The acoustic assessment found that noise generated by the development will comply with all relevant standards. The assessment recommends that certain management measures be implemented to ensure internal noise levels comply with relevant Australian Standards.

In addition, Council's Environment Health section who has raised no objection to the proposed development subject to condition.

Accordingly, it is considered that the extended operating hours for the retail component of the development is considered reasonable and it will result in any adverse impact on the residential properties surrounding the site and within the subject site. However, it is recommended that Sunday and public holiday operating hours be restricted to 10 pm only.

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

Northern Beaches Council Contributions Plan 2018

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this 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 Development Consent to DA2018/1270 for Extension of operating hours of approved Commercial Premises on land at Lot 100 DP 1235895, 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:

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Assessment - Plaza Assessment (Revision 2)	16/05/2018	Acoustic Logic

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 the Council and approved plans. (DACPLB01)

2. **No Approval for Land Use**

No approval is granted under this Development Consent for any land use. A separate Development Application must be submitted to Council for approval prior to the use of the premises.

Reason: To ensure compliance with the relevant Local Environmental Plan. (DACPLB04)

3. **Prescribed Conditions (Crown Land Only)**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

Reason: Legislative Requirement (DACPLB09)

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

4. **Noise Minimisation -Acoustic Treatments**

All recommendations for acoustic treatments contained in the report by Acoustic Logic revised 16.5.2018 shall be completed before an Occupation Certificate is issued for each Retail Tenancy or operation of the businesses commences.

Reason: To minimize noise and vibration to residential receivers (DACHPFPOC5)

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

5. **Hours of Operation**

The hours of operation for the retail component of the Development are:

- Monday to Friday – 7 am - 11 pm
- Saturday – 7 am - 11 pm
- Sunday and Public Holidays – 7 am - 10 pm

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.

Reason: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)

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

Signed



Lashta Haidari, Planner

The application is determined on //, under the delegated authority of:



Steven Findlay, Manager Development Assessments

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

	Notification Document	Title	Date
	2018/499442	Notification Map	07/08/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/476737	Report - Acoustic Assessment - Plaza Assessment	24/05/2018
 2018/476728	Report - Statement of Environmental Effects	25/07/2018
 2018/476720	ASIC - Current Extract	26/07/2018
 DA2018/1270	884-896 Pittwater Road DEE WHY NSW 2099 - Development Application - Change of Use	27/07/2018
 2018/476594	DA Acknowledgement Letter - Karimbla Constructions Services (NSW) Pty Ltd	30/07/2018
 2018/476707	Development Application Form	30/07/2018
 2018/476712	Applicant Details	30/07/2018
 2018/476752	Plans - Master Set	30/07/2018
 2018/500377	Environmental Health (Industrial) - Assessment Referral - DA2018/1270 - 884 - 896 Pittwater Road DEE WHY NSW 2099	07/08/2018
 2018/497753	Request for Further Information - DA2018/1270	07/08/2018
 2018/497958	Development Application Advertising Document - Karimbla Constructions Services (NSW) Pty Ltd	07/08/2018
 2018/498265	Traffic Engineer Referral Response - 07 August 2018	07/08/2018
 2018/499374	ARP Notification Map	07/08/2018
 2018/499380	DA Acknowledgement Letter (not integrated) - Karimbla Constructions Services (NSW) Pty Ltd	07/08/2018
 2018/499442	Notification Map	07/08/2018
 2018/499492	Notification Letter - 568	07/08/2018
 2018/502841	DA2018/1270 - 884-896 Pittwater Road, Dee Why	08/08/2018
 2018/506677	DA Fees Receipt	10/08/2018