

Statement of Environmental Effects

S4.55 Application

884-896 Pittwater Road, 9-17 Howard Avenue, 14-16 and
28 Oaks Avenue, Dee Why

Delete condition 4 – Section 94A (Section 7.12)
Contributions

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Annexure 1: Quantity Surveyors Report accompanying DA2016/0705

Annexure 2: Quantity Surveyors Report accompanying DA2017/0576

1 Introduction

1.1 Overview

This Statement of Environmental Effects (SEE) describes and considers a modification to Development Consent DA2017/0576 for the fitout and use of a childcare centre at 884-896 Pittwater Road, 9-17 Howard Street, 14-16 and 28 Oaks Avenue, Dee Why. The site is known as Dee Why Town Centre "Site B". It seeks the deletion of Condition 4 of the consent which requires Section 94A (Section 7.12) payments in respect of the approved development.

1.2 Relevant Background

1.2.1 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.

1.2.2 DA2016/0705 Mixed Use Development

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 consent includes 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).

The childcare centre is to be located at the first floor level of the approved eastern building with a street frontage to Oaks Avenue. It forms an integral component of the overall Dee Why Town Centre Site B development.

1.2.1 DA2017/0576 Childcare Centre Fit Out

DA2017/0705 did not include fit out details for the childcare centre. Accordingly, a subsequent DA for consent for the use and fit out of the childcare centre located at the first floor level of the development's eastern building as shown on the approved plans for DA2016/0705 was submitted with Council.

The application (DA2017/0576) sought approval for the use and fit out of the childcare centre and included the following details:

- Capacity for a maximum 159 children (age group breakdown specified below)
- Internal play areas totalling 513.75sqm
- Outdoor play areas totalling 1,113sqm
- Office, reception area and administration room
- Amenities including toilets, laundry, bottle preparation, cot, and nappy change room and kitchen.

The DA was approved on 2 August 2017 subject to conditions.

1.3 Purpose of the Modification

The subject application seeks to delete Condition 4 of DA2017/0576 which requires the payment of a Section 94A (Section 7.12) contribution in respect of the proposed development, being the fit out of the childcare centre. All payments that may be charged pursuant to Clause 7.12 (Section 94) of the *Environmental Planning and Assessment Act, 1979* have however, already been applied to the development under Condition 7 of DA2016/07015.

The childcare centre is an integral component of the overall development of the Dee Why Town Centre Site B project site and as such the estimated cost of works to construct the childcare centre (namely the exterior walls) was included in the estimated cost of works for the buildings for the site, as approved under DA2016/0705 (refer to **Annexure 1**). No deduction associated with the cost of constructing the childcare centre was applied by Council in calculating the S94A contribution payment for DA2016/0705 and accordingly, the monetary charge applied under Condition 7 of DA2016/0705 already includes the relevant contribution payment amount for the delivery of the childcare centre.

Section 25J of the *Environmental Planning and Assessment Regulations 2000* sets out what items may and may not be included when calculating the relevant Section 7.12 contribution amounts for a development proposal. (It is relevant to note that the relevant inclusions and exclusions for the calculation of estimated cost of works for the purposes of the DA fee, as set out in Clause 255 of the EP&A Regulations, differ to those for the purposes of calculating Section 7.12 contributions). Under Section 25J Clause 3 (g) the cost of fittings and furnishings are to be excluded from the calculation of cost of works. The clause states the following:

25J Section 7.12 levy – determination of proposed cost of development

(3) The following costs and expenses are not to be included in any estimate or determination for the proposed cost of carrying out development:

...

(g) The costs of fitting and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land).

The development approved under DA2017/0576 involves fit out works only and as such no additional payments over and above those already charged under Condition 7 of DA2016/0705 under Section 7.12 are payable.

1.4 Structure of the Report

This Statement:

- Describes the site and its surrounding area;
- Details the nature of the proposed development; and
- Undertakes an assessment of the proposal under the heads of consideration in Section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

The conclusion is reached that the proposal is acceptable with regard to all relevant planning issues.

2 Site and Surroundings

2.1 The Site

2.1.1 Property Description

The site is known as 884-896 Pittwater Road, 9-17 Howard Street, 14-16 and 28 Oaks Avenue, Dee Why. **Figure 1** shows the general location of the site and **Figure 2** shows an aerial view of the site and its boundaries. The table below provides a list of the site details.

Land Title	Address
Lot 1, DP 307937	896 Pittwater Road, Dee Why
Lot 3, DP 307937	896 Pittwater Road, Dee Why
Lot A, DP 416469	894 Pittwater Road, Dee Why
Lot 1, DP 504212	892 Pittwater Road, Dee Why
Lot 10, DP 231418	890 Pittwater Road, Dee Why
Lot 11, DP 231418	888 Pittwater Road, Dee Why
Lot A, DP 339410	884 Pittwater Road, Dee Why
Lot 7, Section 16, DP 8172	9 Howard Avenue, Dee Why
Lot 1, DP 209503	11 Howard Avenue, Dee Why
Lot 1, DP 212382	15 Howard Avenue, Dee Why
Lot 2, DP 212382	17 Howard Avenue, Dee Why
Lot A, DP 371110	14 Oaks Avenue, Dee Why
Lot B, DP 371110	16 Oaks Avenue, Dee Why
Lot 3, DP 212382	28 Oaks Avenue, Dee Why

2.1.2 Existing Development

The site was previously occupied by a mix of non-residential buildings that have been demolished. DA2016/0705 for the construction of a new mixed use development including a shopping centre was approved on 10 May 2017. Construction has commenced.

2.1 Surroundings

The surrounding area comprises the Dee Why Town Centre. It consists of a mix of land uses with a focus on small scale retail and commercial development with newer residential flat buildings occurring on the western side of Pittwater Road.

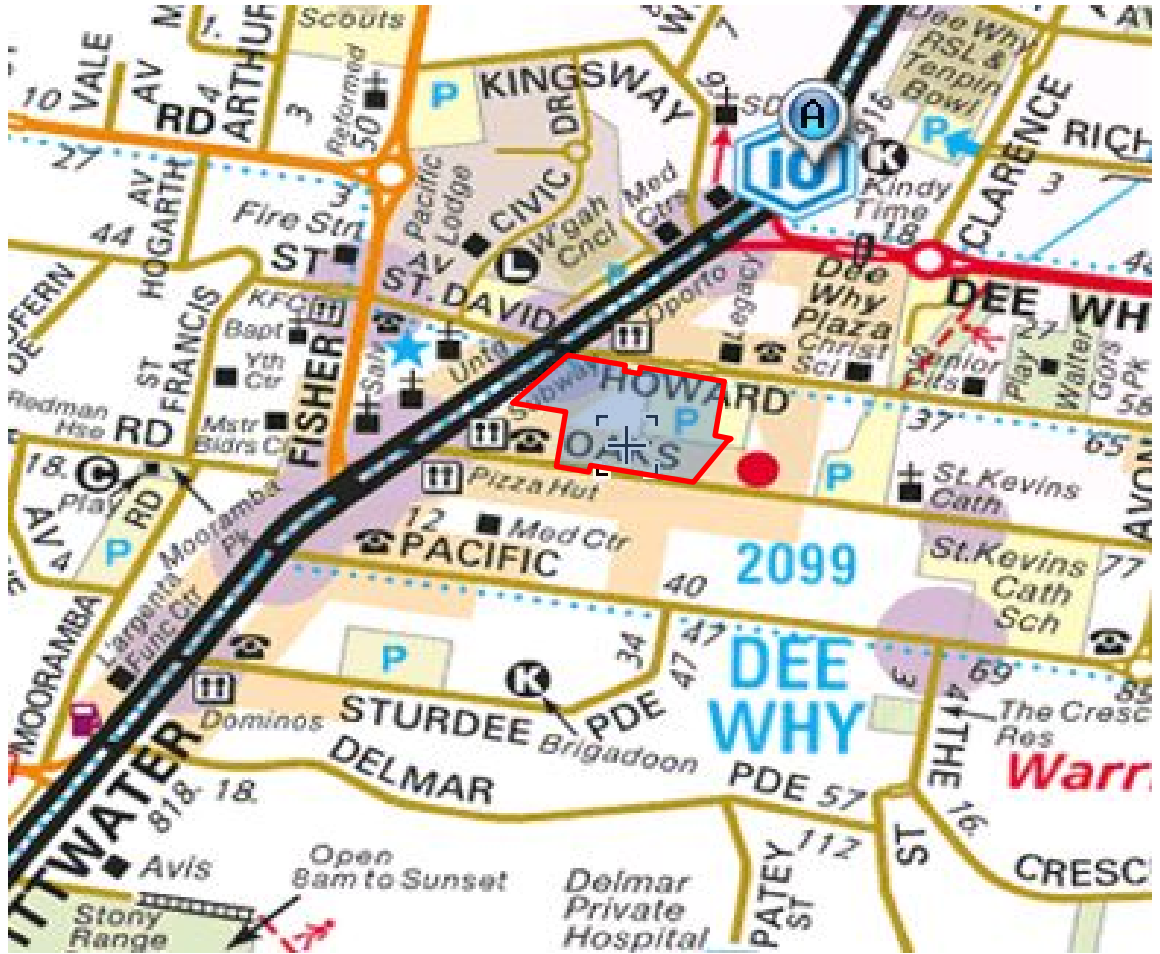


Figure 1: Location of subject site marked with red star



Figure 2: Aerial view of subject site - outlined in red

3 Proposed Modification

3.1 Reason for the Modification

The subject application seeks to delete Condition 4 of DA2017/0576 which requires the payment of a Section 94A contribution in respect of the proposed development, being the fit out of the childcare centre. Condition 4 requires a payment of \$18,834.44, being 1% of the estimated cost of works as specified in the Quantity Surveyors Report that accompanied the DA (refer to **Annexure 2**) of \$1,883,44. All contribution requirements that may be charged pursuant to Section 7.12 (formerly Section 94A) of the *Environmental Planning and Assessment Act, 1979* have however, already been applied to the development under Condition 7 of DA2016/07015.

The childcare centre is an integral component of the overall development of the Dee Why Town Centre Site B project site and as such the estimated cost of works to physically construct the childcare centre (namely erect the exterior walls and associated engineering works) was included in the estimated cost of works for the buildings for the site, as approved under DA2016/0705 (refer to **Annexure 1**). No deduction associated with the cost of constructing the childcare centre was applied by Council in calculating the S94A contribution payment for DA2016/0705 and accordingly, the charges applied under Condition 7 of DA2016/0705 include the relevant contribution payment amount for the delivery of the childcare centre.

Section 25J of the *Environmental Planning and Assessment Regulations 2000* sets out what items may and may not be included when calculating the relevant Section 7.12 contribution amounts for a development proposal. Under Clause 3 (g) the cost of fittings and furnishings are to be excluded from the Section 7.12 calculation. The clause states the following:

25J Section 7.12 levy – determination of proposed cost of development

(3) The following costs and expenses are not to be included in any estimate or determination for the proposed cost of carrying out development:

...

(g) The costs of fitting and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land).

The development approved under DA2017/0576 involves fit out works only and as such no additional payments over and above those already charged under Condition 7 of DA2016/0705 under Section 7.12 are payable in this case.

3.2 Proposed Modification

The proposal involves the deletion of Condition 4 in its entirety.

3.3 Proposed Works

No physical works are proposed by this application.

4 Section 4.55 Assessment

The application has been assessed in accordance with the relevant requirements of Section 4.55 of the EP&A Act as set out below.

4.1 Environmental Impact

The potential environmental impacts of the proposed amendments are negligible and can be considered under the provisions of Section 4.55 of the EP&A Act. The proposal involves a change to the conditions of consent only. The physical appearance of the development will not be impacted in any way.

4.2 Extent of Modification

The proposed modifications will result in substantially the same development as originally approved under DA/2017/0576. The proposed modifications will not have any impact on the nature, scale, location or form of the approved buildings.

5 Environmental Planning Assessment

5.1 Section 4.15(1)(a)(i): Environmental Planning Instruments

5.1.1 Warringah Local Environmental Plan 2011

Part 2 of the Warringah Local Environmental Plan 2011 (LEP) identifies that the subject site is zoned B4 Mixed Use.

There are no other clauses of the LEP that are particularly relevant in the assessment of the proposal.

5.2 Section 4.15(1)(a)(ii): Draft Environmental Planning Instruments

Not applicable.

5.3 Section 4.15(1)(a)(iii): Development Control Plans

5.3.1 Warringah Development Control Plan 2011

Warringah Development Control Plan 2011 applies to the subject site. The proposal does not affect compliance of the development with the relevant provisions of the DCP.

5.4 Section 4.15(1)(a)(iiia): Planning Agreements

None applicable.

5.5 Section 4.15(1)(a)(iv): Regulations

The modification has been made in accordance with the requirements contained in the *Environmental Planning and Assessment Regulation 2000*. In particular, the proposal reflects the requirements of Clause 25J.

5.6 Section 4.15(1)(b): Likely Impacts

The Dee Why Town Centre "Site B" development was approved under DA2016/0705. No changes are proposed to the built form approved under that DA or to the internal fit out of the childcare centre contained within that development as approved under DA2017/0576. The proposal will not alter the architectural character or appearance of the approved buildings.

The proposed alterations will not result in any discernible environmental impacts.

Overall, the proposal will have a positive social and economic impact through the provision of a good quality mixed use development that will provide new social infrastructure in the form of a childcare centre.

5.7 Section 4.15(1)(c): Suitability of the Site

There are no environmental constraints on the site that would impede the modification or render it unsuitable for the site.

5.8 Section 4.15(1)(d): Submissions

Council will consider submissions at the close of the exhibition period.

5.9 Section 4.15(1)(e): The Public Interest

For the reasons set out in this Statement, it is considered that the public interest would be best served by approval of the modification under consideration, to remove any risk to private or public land holdings.

6 Conclusion

The proposed modification involves the deletion of condition 4 of DA2017/0576 to remove any requirement for Section 94A contributions for the proposed fit out works, noting that:

- (1) The estimated cost of works for the construction of the childcare centre was included in the total cost of works provided in the Quantity Surveyor's Report that accompanied DA2016/0705 for the development of the buildings on the Dee Why Town Centre Site B project site.
- (2) In calculating the S94A charges payable for the development proposed under DA2016/0705 no deductions in respect of the childcare centre were made by Council, therefore all relevant charges have already been included in the contribution requirements specified under Condition 7 of DA2016/0705.
- (3) The proposed development is for fit out works only. Fit out works are to be specifically excluded from the estimated cost of works of a proposed development for the purposes of calculating the applicable Section 7.12 charge payable as specified by Section 25J of the EP&A Regulations. No other aspects of the development approved under DA2017/0576 would trigger a requirement for Section 7.12 charges to be applied.

The proposal satisfies the relevant heads of consideration under Section 4.15 of the *Environmental Planning & Assessment Act, 1979*.

The development is substantially the same as when originally approved for the purposes of Section 4.55 of the *Environmental Planning and Assessment Act* and will have no implications upon the public domain.

Accordingly, the application should be recommended for approval.

Meriton
July 2018

**Annexure 1: Quantity Surveyors Report accompanying
DA2016/0705**

**Annexure 2: Quantity Surveyors Report accompanying
DA2017/0576**