

11th September 2013

Warringah Council

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**RE: SECTION 96 DEVELOPMENT APPLICATION No: DA2005/0264CA (PAS)
FOR ROOF TOP SAIL/SHADE STRUCTURES AT Lot 11 DP 6808 & Lot 1 DP 34873
577-579 PITTWATER ROAD, BROOKVALE, NSW 2100.**

On behalf of our clients the Owl and the Pussycat Preschool and the owners of the site V and R Chirillo ATF VC Family Trust, we hereby enclose the Section 96 Development Application Documents for the sail/shade structures, which include the following:

1. Development Application form signed by Anthony Chirillo as nominated authority of the site & Humel Architects Pty Ltd as the applicants,
2. Letter from the owners V and R Chirillo ATF VC Family Trust giving Humel Architects permission to lodge the Section 96 documentation on behalf of the Owl and the Pussycat Preschool,
3. Building cost quotation from Shade2Measure Pty Ltd for the supply and installation of the shade sail structures attached in Appendix No: 1.
4. Development Application fee cheque \$491.55 from the Owl and the Pussycat Preschool Brookvale,
5. This letter including a statement of environmental effects and Appendices No's: 1, 2, 3, 4, 5, 6 & 7.
6. Site Analysis prepared by Humel Architects dated 11 September 2013,
7. Architectural Drawings No's: 2012.90 – DA1B, DA2B, DA3B, DA4B and DA5A (3x A1 copies),
8. Original approved Architectural Drawings Job No: 0418 - DA3F & DA4G
9. Advertising copies (7 x A4 copies).

We trust the enclosed documents are acceptable and if Council requires any further information please contact our office.

Yours faithfully,

Ben Humel

Humel Architects Pty Ltd

cc. Owl & Pussycat Childcare Centres

cc. V and R Chirillo ATF VC Family Trust

2013.90.50 – 557-579 Section 96 Shade Structures

11-09-2013

1 - 18

**DEVELOPMENT APPLICATION FOR TWO SAIL/SHADE STRUCTURES AT
577 - 579 PITTWATER ROAD, BROOKVALE, NSW 2100.**

STATEMENT OF ENVIRONMENTAL EFFECTS

A. The Site

The site is located at 577 – 579 Pittwater Road, Brookvale – Lot 1 DP 34873 & Lot 11 DP 6808, which is occupied by a commercial building as shown on photograph No:1 below. The Owl & Pussycat Preschool Brookvale occupies the top two levels of the building which has Development Application Approval and has been fitted out to operate as a long day care centre for babies, toddlers and preschool.

B. The Proposal

The activities level is located at the top of the building and there are currently two shade/sail structures which have been erected to the roof top terrace being one area of 192m² and a smaller area of 39m² providing a total 231m² of shaded area. The Development Approval for the building originally included for the approval of shade sail structures over the outdoor terrace as shown on Architectural Drawings No: DA03 and DA04, refer to Appendix No: 2. The approval included providing 80% shade to the external roof top level being 355.833m² which would equate to a total covered area 284.66m². Based on the previous development application approval we hereby propose this Section 96 application in accordance with the following schedule:

S96 Proposed Schedule of Works

Item	Description	Reason
1	Remove the existing shade structures	To comply with Councils orders and to be substantially the same as the original Development Application sail details as described on the Architectural Plans
2	Submit an S96 application to modify the original layout of the sails to suit the practicalities of constructing the sails in accordance with the quote and sketch as received by Shade2Measure Pty Ltd, refer Appendix No: 1.	To comply with Councils orders and ensure that the constructed sails are in accordance with Councils approvals prior to carrying out the work.
3	Coordinate a construction certificate approval for the approved S96	To comply with Councils orders and ensure the sails are constructed in accordance with the approved S96 and the requirements of the building code of Australia.

The proposed sail configuration as shown on Architectural Drawing No's: shows a slightly different layout to that as originally approved based on the practicalities of constructing the sails. This S96 sail proposal significantly reduces the overall height of the sails and the sail colour to being a beige in lieu of blue as previously erected. Further the profile of the proposed sail design will closely resemble the cross section of the original approved sails with a minimum height of 2100 and a maximum height of 3000mm in the centre to accommodate the children's play equipment. This cross section will produce a very flat aspect ratio to the sail and reduce the height of the current sails by 1500mm. The low profile will make the sails visually imperceptible when viewed from Pittwater Road as shown in the photograph below.



Photo No: 1 Commercial Building 557 – 579 Pittwater Road
Red line shows general visual of proposed shade/sail structure

The new shade/sail structure will be very low profile and consistent with original approved DA. Photograph No: 2 and 3 below shows the low profile shade and colour proposed for the 557 – 579 Pittwater Road building.



**Photo No: 2 Example Shade Fabric in desert sand colour
Little Diggers Preschool Veterans Parade, Collaroy**



**Photo No: 3 Example of low profile shade structure
Little Diggers Preschool Veterans Parade, Collaroy**

Section 96(2) of the Environmental Planning and Assessment Act 1979, enables a consent authority to modify a development consent granted by the Court upon application being sought by the applicant, provided that the consent authority as part of the assessment process takes into consideration the following matters:

Is the proposed development as modified substantially the same development as originally approved by Council?

Comment: The original approval related to the occupation and fit-out of the Childcare Centre, (including after school care) the modification relates to the shade structures erected on the upper roof terrace. Shade sail structures were detailed and approved as part of the original plans for the childcare centre occupation. In this regard, we propose that the proposed modification work is “substantially the same” in its composition and elements and is thereby consistent with the original approval. This has been reviewed as follows:

Are the shade structures substantially the same material. ? Yes. The material is an open weave fabric mounted on a steel support frame.

Are the structures substantially the same colour? Yes. The proposed material is beige in colour as per example photographs 2 & 3. The original shade sails comprised 5 large white/beige shade sails, with 5 smaller light blue central shade sails.

Are the structures essentially the same height? Yes. The new shade material is proposed to be stretched flat between 4 anchor posts for each sail.

Are the shade structures substantially the same height? Yes. The proposed shade material is stretched flat between 4 anchor points for each sail.

Are the shade structures substantially the same shape? Yes essentially. The original shade cloths were square and comprised 5 medium sized shades and 5 smaller central shades in a flat square shape for each. The proposed shade structures match as closely as possible the original approved shades however, for practical reasons they do diverge from the original approved layout which is the subject of this Section 96 application. The reason for the diversion from the approved layout is to provide more practical and efficient shade fabric arrangements given the extent of shade required for the childcare use.

Are the shade structures creating substantially the same visual impact? Yes. The proposed shade material is stretched flat between 4 anchor points for each sail and covers a similar area to that originally approved.

Are the shade structures providing substantially the same function? Yes. The proposed shade structures cover the principle outdoor rooftop play area similar to the previous quantum of area under shade cloth and give reasonable solar protection.

Comment: In consideration of the above the proposed S96 for the minor modification on the shape in plan layout is considered to be substantially the same as the originally approved shade structures. In this regard it is considered that the proposal is a Section 96 as the shade sails are consistent in shape, colour, design and height to the original approved shade sails and serve the same purpose. The design layout has been modified in plan and remains consistent with the original shade cloth approval in terms of visual impact, height or colour.

C. Precedence for Shade/Sail Structures

There is a condition precedent for the erection of light weight shade/sail structures with the Brookvale Business area as evidenced by recent building approvals and recent building construction. Council has previously taken the view that light weight shade/sail structures attached to the top of a building and generally above the traditional 11.0 metre height limit do not form part of the traditional bulk and scale of the building. The shade/sail structures are open on all sides and do not add to the floor area of the building and have been used in recent building approvals to cover the roof top parking area of commercial and industrial buildings. This is no visual difference in using shade/sail structures to cover part of the outdoor play area in a childcare centre as to provide shade/sail structures for roof top parking. The proposed shade/sail structures at the Owl & Pussycat Preschool Brookvale have less visual impact than most car park shade/sail structures as the proposed shade/sail structures cover less than 30% of the roof top area as opposed to car parks where the shade/sail structures cover up to 90% of the roof top area.

Precedent examples of these shade/sail approvals are as follows:

21 Roger Street, Brookvale – Col Crawford Car Service Centre – Refer Appendix No: 5

Refer photographs below and development application plans in Appendix No: 5, as the building has been approved and has been constructed with shade/sail structures above the 11 metre height limit. These shade/sail structures cover approximately 90% of the roof top parking area.



Photo:2 - Col Crawford Car Service Centre



Photo:3 - Col Crawford Car Service Centre

192 – 194 Harbord Road, Broovale – Industrial Building – Refer Appendix No: 6

Refer to development application plans in Appendix No: 6 showing the approved building plans and elevations with shade/sail structures above the 11 metre height limit. These shade/sail structures cover approximately 90% of the roof top parking area.

762 Pittwater Road & 10 -12 West Street, Brookvale – Car Sales, Bulky Goods Retail and Industrial Building – Refer Appendix No: 7

Refer to development application plans in Appendix No: 7 showing the approved building plans and elevations with shade/sail structures above the 11 metre height limit. These shade/sail structures cover approximately 90% of the roof top parking area.

Warringah Mall – Shopping Centre

Refer photographs below as the building as been approved and has been constructed with shade/sail structures above the 11 metre height limit. These shade/sail structures cover large areas of the roof the roof top parking area as can be seen from the photographs.



Photo:4 - Warringah Mall Shopping Centre



Photo:5 - Warringah Mall Shopping Centre

D. Site Analysis Plan

Refer to Humel Architects Drawing No DA01-B and Site Analysis schedule forming part of this Section 96 Development Application.

E. Shadow Impact

As the proposed sail structures have been erected on the top of the existing commercial building and the adjacent sites are occupied by commercial activities then any shading resulting from the sail/shade structures will have no adverse impact on any commercial neighbouring properties. Also, as the residential neighbour is located to the west then shadows cast by the shade/sail structures between 9.00am and 3.00pm will fall on the existing concrete roof structure of the existing building.

As such the proposed shade/sail structures will have no adverse impact any residential neighbours properties.

F. Stormwater Impact

The proposed shade/sail fabric is of a porous nature and therefore any rain will gather on the roof terrace and drain to the existing stormwater system.

G. Traffic & Parking:

The shade/sail structures have no impact on traffic and parking.

H. Colours & Finishes

The colour of the shade/sail structure is proposed to be desert sand, refer photograph No: 2 and 3 as such will give no reflectivity and generates no glare to the neighbours properties.

I. Conclusion:

The proposed shade/sail structures provide an approved and required covered outdoor space for the recreational activities of the preschool located at the rooftop level of the building. The structures are light weight and do not contribute to the bulk and scale of the building as all four sides are open and the supporting structure is of minimal framework. This Section 96 application seeks to modify the proposed shade cloth layout in accordance with the Architectural Drawings whilst remaining substantially the same development as originally for the reasons outlined as follows:

1. The proposed shade cloth layout is consistent with the visual appearance, shape, colour and height of the approved structures.
2. The proposed shade cloth cross sections and shape is consistent with the height of the approved structures,
3. The proposed shade cloths' are "substantially the same" works as the approved structures.

As such we consider that there is no detrimental effect created by the provision of the proposed shade/sail structures which would give rise to any significant environmental effect on any neighbours properties than that which was originally approved.

Therefore we seek approval of this Section 96 application for the shade/sail structures described in the Architectural Plans and attached documents.

Yours faithfully,

Ben Humel
Humel Architects Pty Ltd

Appendix No: 1 - Building Cost – Shade2Measure Pty Ltd Quote

Appendix No: 2 - Original Approved Architectural Drawings

Appendix No: 3 - Proposed Architectural Drawings

Appendix No: 4 - Site Survey 10013 – 1L1

**Appendix No: 5 - 21 Roger Street, Brookvale – Col Crawford Service Centre
Plans & Elevations**

**Appendix No: 6 - 192 – 194 Harbord Road, Brookvale – Industrial Building
Plans & Elevations**

**Appendix No: 7 - 762 Pittwater Road & 10 -12 West Street, Brookvale – Car Sales,
Bulky Goods Retail and Industrial Building**