

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/0187
----------------------------	-------------

Responsible Officer:	Tony Collier
Land to be developed (Address):	Lot 4 DP 270323, 4 Tilley Lane FRENCHS FOREST NSW 2086
Proposed Development:	Construction of a child care centre
Zoning:	LEP - Land zoned B7 Business Park
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Rocker Holdings Pty Ltd
Applicant:	Rocker Holdings Pty Ltd

Application lodged:	02/03/2016
Application Type:	Integrated
State Reporting Category:	Other
Notified:	16/03/2016 to 04/04/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,219,530.00
---------------------------------	-----------------

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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B7 Front Boundary Setbacks

SITE DESCRIPTION

Property Description:	Lot 4 DP 270323 , 4 Tilley Lane FRENCHS FOREST NSW 2086
Detailed Site Description:	The site is located on the western side of Tilley Lane and is legally known as Lot 4 in DP 270323, No. 4 Tilley Lane, Frenchs Forest. The site is rectangular in shape and has a width of 20.0m, a length of 50.7m and an area of 1,014m². The land is cleared and vacant and slopes approximately 1.8m width-wise from north to south. An easement for electricity transmission lines extends along the eastern boundary of the allotments to a width of approximately 24.0m. Surrounding development is characterised by a mixture of office and warehouse style developments. Buildings range in height from 2 to 6 storeys. A Public Open Space Reserve (formerly an Arterial Road Reservation for the Wakehurst Parkway) abuts the site to the west.

Map:



SITE HISTORY

The site has been the subject of the following applications:

DA2007/0434

This application was lodged on 21 May 2007 for the construction of a new office building, basement car

park, erection of business identification signage and associated site and landscape works.

The application was approved on 12 September 2007.

MOD2007/0975

This application was lodged on 21 December 2007 under Section 96(1) of the EP&A Act 1979 to delete condition of consent 67 - Excavation Distance from Boundary.

The application was approved on 24 January 2008.

MOD2008/0020

This application was lodged on 29 January 2008 to amend and delete specific conditions of consent including amendments to roof vents, roof heights and removal of porous paving and radiate heat shield.

The application was approved on 26 May 2008.

PLM2013/0095

This prelodgement meeting was held on 23 August 2013 for alterations and additions to an existing building and use of premises as a Childcare Centre and Storage Facility.

The Notes provided in response to the meeting stated:

"The proposed uses are permissible and can be supported by Council. The design and siting of the building does not comply with fundamental built form controls applicable to the site and therefore the proposal cannot be supported by Council. Further the proposal does not satisfy the minimum car parking requirements as per Appendix 1 of the WDCP and therefore the proposal is unable to be supported by Council."

Any new buildings located on the subject site should provide a minimum side boundary setback of 2 metres to each side boundary and treat the setback area with landscape elements to reduce the visual appearance of the development and maintain the existing pattern of buildings in the area."

DA2013/1523

This application was lodged on 20 December 2013 for the construction of a Child Care Centre.

The application was withdrawn by the applicant on 2 April 2014 due to advice from the NSW Rural Fire Service that the proposal could not be supported because the Bushfire Fire Assessment Report, prepared by Travers Bushfire & Ecology and dated 17 February 2014, had not addressed the performance criteria for a Special Fire Protection Purpose development as set out in 'Planning for Bush Fire Protection 2006'.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to construct a three storey child care centre on the subject land.

The Centre proposes to accommodate 94 children and will operate between 6.30am to 6.30pm Monday to Friday.

The Centre consists of the following:

Ground Level (RL 146.30)

- Levelling of the site;

NORTHERN BEACHES COUNCIL

- Provision of an undercroft carparking area accommodating 24 parking spaces (entry is gained off Tilley Lane);
- Provision of a 12m high 'heat shield wall' at the rear of the site facing the neighbouring bushland reserve;
- Provision of a 287m² outdoor 'soft-fall' play area between the heat shield wall and the building;
- Landscaping; and
- Lift and stairwell to the upper levels.

First Floor (RL 149.40)

- Internal areas designated for the following age groups:
 - 0 to 2 years old: 83,6m² (24 children);
 - 2 to 3 years old: 49m² (15 children);
- Office space and amenities;
- 2 x cot areas;
- Lift and stairwell to the upper and lower levels;
- 207m² outdoor terrace play area.

Second Floor (RL 152.40)

- Internal areas designated for the following age groups:
 - 2 to 3 years old: 48.9m² (15 children);
 - 3 to 4 years old: 65m² (20 children);
 - 4 to 5 years old: 65m² (20 children);
- Staff Room and amenities;
- Lift and stairwell to the lower levels; and
- 187m² outdoor terrace play area.

AMENDED PLANS

A revised plan was received by Council on 20 April 2016 which sought to address Council's concerns regarding the boundary-to-boundary heat shield wall along the rear boundary. The revised plan set the heat shield wall back 2.0m from the rear boundary and 2.0m in from both side boundaries. The heat shield wall was also redesigned to include indentations and glass block penetrations to provide a greater level of articulation.

ADDITIONAL INFORMATION

The following information was received following a request made by Council:

- Report on Geotechnical Investigation dated 24 June 2016 as prepared by Douglas Partners;
- Addendum to Contamination Assessment Report dated 24 June 2016 as prepared by Douglas Partners; and
- Bushfire Protection Assessment dated 10 May 2016 as prepared by Travers Bushfire & Ecology.

The original 'Report on Geotechnical Investigation' submitted with the application was found to refer to the office building proposed under DA2007/0434. As that development was of a different build, the updated Report on Geotechnical Investigation was requested to directly address the build of the proposed child care centre.

The Addendum to Contamination Assessment Report was requested due to a statement made in the

original Phase 2 Contamination Assessment submitted with DA2007/0434 which recommended that, *"if the site is to be redeveloped for a more sensitive use [other than the then proposed office building], then further assessment would be required"*.

The Bushfire Protection Assessment was submitted to supersede the original Assessment due to the amendments made to the heat shield wall. The revised plans and the Assessment were referred to the NSW Rural Fire Service on 12 May 2016 for their concurrence.

In the instances of the amended plans and additional information, the changes were not considered to result in a greater environmental impact and further notification was not required to be re-notified in accordance with Clause A.7 of the Warringah Development Control Plan 2011.

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 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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. <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. Additional information was requested (please refer above to heading - Additional Information). <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <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.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the	(i) 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. (ii) The proposed development will not have a detrimental social

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
locality	impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (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 Warringah 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								
Development Engineers	The application was referred to Council's Development Engineer for review. The following comments have been provided: <i>"The previous subdivision application which created the lot provided the necessary on-site stormwater detention for this development and as such OSD is not required. Stormwater from the site is to connect to the existing inter-allotment drainage easement that benefits the site. The access road to the site is a private road so no approval from Council is required for the driveway crossing.</i> <i>No objection to approval, subject to conditions as recommended".</i>								
Environmental Investigations (Contaminated Lands)	<table> <tr> <td>Was sufficient documentation provided appropriate for referral?</td><td>YES</td></tr> <tr> <td>Is the site potentially contaminated?</td><td>NO</td></tr> <tr> <td>Are the reports undertaken by a suitably qualified consultant?</td><td>YES</td></tr> <tr> <td>Do the reports reflect the requirements of SEPP</td><td>YES</td></tr> </table>	Was sufficient documentation provided appropriate for referral?	YES	Is the site potentially contaminated?	NO	Are the reports undertaken by a suitably qualified consultant?	YES	Do the reports reflect the requirements of SEPP	YES
Was sufficient documentation provided appropriate for referral?	YES								
Is the site potentially contaminated?	NO								
Are the reports undertaken by a suitably qualified consultant?	YES								
Do the reports reflect the requirements of SEPP	YES								

NORTHERN BEACHES COUNCIL

Internal Referral Body	Comments												
	<table border="1"> <tr> <td data-bbox="515 304 1163 394">55 & Guidelines for Assessing Contaminated Sites?</td><td data-bbox="1163 304 1437 394"></td></tr> <tr> <td data-bbox="515 394 1163 439">Is the site potentially contaminated?</td><td data-bbox="1163 394 1437 439">NO</td></tr> <tr> <td data-bbox="515 439 1163 551">Have you considered the list of potential contamination sites where phase 1 is required under SEPP55?</td><td data-bbox="1163 439 1437 551">YES</td></tr> <tr> <td data-bbox="515 551 1163 663">Does the information submitted, and/or imposition of conditions, allow the the site to be validated safe for its intended use?</td><td data-bbox="1163 551 1437 663">YES</td></tr> <tr> <td colspan="2" data-bbox="515 663 1437 853"> General Comments Reviewed by Environmental Investigations. No objections subject to conditions/ </td></tr> <tr> <td data-bbox="515 853 1163 965">Recommendation</td><td data-bbox="1163 853 1437 965">APPROVAL - subject to conditions</td></tr> </table>	55 & Guidelines for Assessing Contaminated Sites?		Is the site potentially contaminated?	NO	Have you considered the list of potential contamination sites where phase 1 is required under SEPP55?	YES	Does the information submitted, and/or imposition of conditions, allow the the site to be validated safe for its intended use?	YES	General Comments Reviewed by Environmental Investigations. No objections subject to conditions/		Recommendation	APPROVAL - subject to conditions
55 & Guidelines for Assessing Contaminated Sites?													
Is the site potentially contaminated?	NO												
Have you considered the list of potential contamination sites where phase 1 is required under SEPP55?	YES												
Does the information submitted, and/or imposition of conditions, allow the the site to be validated safe for its intended use?	YES												
General Comments Reviewed by Environmental Investigations. No objections subject to conditions/													
Recommendation	APPROVAL - subject to conditions												
Environmental Investigations (Industrial)	The application was referred to Council's Environmental Investigations Department for review. No objection was raised and the application was recommended for approval subject to conditions.												
Landscape Officer	The plans indicate use of non-native species in the front setback. In view of the location fo the site adjacent to Duffy's Forest vegetation group, it is recommended that landscaping comprise species from this group. It is also noted that the proposal includes a 12 metre high radiant heat shield on the rear boundary which is not indicated on the Landscape Plan. The planning assessment needs to address this aspect of the development.												
Natural Environment (Biodiversity)	The application was referred to the Biodiversity section of Council's Natural Environment unit for review. The following comments have been provided: <i>"The proposal is supported, without conditions.</i> <i>The referral back from the Rural Fire Service must be brought to the attention of NEU Biodiversity for review, especially if there are obligations/requirements to maintain vegetation for bushfire Asset Protection Zone purposes on land to the west of this property, currently under Council Management".</i> The response from the RFS was referred to the Biodiversity section of Council's Natural Environment unit as requested. The following comments have been provided: <i>"The RFS have provided a bushfire safety authority (14 June 2016) for</i>												

NORTHERN BEACHES COUNCIL

Internal Referral Body	Comments
	<i>the proposal subject to conditions. The RFS conditions do not extend beyond the property boundary and do not impact upon the adjacent reserve and remnant vegetation. Council's Natural Environment Unit - Biodiversity section raise no objections to the proposal."</i>
Natural Environment (Riparian Lands/Creeks)	The application was referred to the Riparian Lands section of Council's Natural Environment Unit for review. The following comments have been provided: <i>"No objection to approval with additional no conditions recommended".</i>
Parks, reserves, beaches, foreshore	The application was referred to Council's Parks, Reserves, Beaches and Foreshores Department for review. No objection was raised and no conditions were imposed.
Traffic Engineer	The application was referred to Council's Traffic Engineer for review. The following comments have been provided: <i>"There are no objections to the proposed child care centre with regard to traffic and parking".</i>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	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.
Integrated Development - NSW Rural Fire Service – head office	The application was referred to the NSW Rural Fire Service (RFS) in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979. In their response dated 14 June 2016, the RFS issued their bushfire safety authority as required under Section 100B of the 'Rural Fires Act 1997 subject to conditions which includes a requirements for the provision of a Bush Fire Emergency Management and Evacuation Plan to be consistent with 'Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'. This should make specific arrangements for evacuation to be undertaken from the front of the building in the event of a bush fire. This requirement is added as a separate condition to be satisfied prior to the issuing of an Interim/Final Occupation Certificate.

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 land is contaminated.

Council records indicate that the subject site has been vacant for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7(1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the proposed Child Care Centre land use.

Notwithstanding, it is worth noting that a Phase 2 Contamination Assessment was conducted in 2007 and was submitted as part of DA2007/0434 (for the construction of a new office building, basement car park, erection of business identification signage and associated site and landscape works). That Assessment (prepared by Douglas Partners) concluded:

"Previous testing by Douglas Partners in 2000 indicated that levels of all contaminants analysed were well within the site assessment criteria (SAC) and concluded that the site was suitable for continued commercial/industrial use.

During the current investigation samples were sourced from six (6) locations across the site and the contaminant concentrations were found to be within the SAC for commercial/industrial use. In general it is considered that the site is compatible with the proposed commercial land-use.

If the site is to be redeveloped for a more sensitive use, then further assessment would be required."

Given the concluding sentence above, and that the use is considered to be a more sensitive use than that of an office building, an addendum to the Phase 2 Contamination Assessment was requested by Council to address the proposed child care centre use. The Addendum (as prepared by Douglas Partners) was received on 24 June 2016 and addresses the proposed child care centre. The Addendum concludes:

"The site has been vacant since registration of the subdivision in 2007 which is not considered to have impacted on the condition of soil and groundwater at the site.

Based on the results from previous testing undertaken at the site and reported in DP (2007), it is considered that the site is suitable for future child care land use.

All materials removed from the site must be classified for waste disposal according to the relevant NSW EPA guidelines."

The Addendum was referred to Council's Environmental Investigations (Contaminated Lands) for review. No objection was raised subject to a condition being imposed requiring Council and the Principal Certifying Authority to be notified if any new contamination evidence during works.

SEPP (Infrastructure) 2007

Ausgrid

NORTHERN BEACHES COUNCIL

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.

Roads and Maritime Service (RMS)

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size or Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Commercial premises	10,000m ² in area	2,500m ² in area
Any other purpose	200 or more motor vehicles	

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

“(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.”

Comment

The proposed child care centre is classified as a commercial premises for the purposes of the SEPP.

The site is located within 90m of a road (Fitzpatrick Avenue East) that connects to a classified road (Wakehurst Parkway). The Centre has an area of 1,054m² (over the two floor levels) and is therefore below the size or capacity under Column three. The application is therefore not classified as Traffic Generating Development and was not referred to the RMS.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	

NORTHERN BEACHES COUNCIL

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
4.3 Height of Buildings	N/A	10.0m to 10.5m (Building) and 9.9m to 12.0m (Heat Shield Wall)	N/A	Consistent with other development in the local area

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A
4.6 Exceptions to development standards	N/A
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Permitted	Proposed	% Variation*	Complies
B4 Site Coverage	33.3% (337.6m ²)	27.9% (283.6m ²)	N/A	Yes
B5 Side Boundary Setbacks	Nil	North		
		Ground: 1.0m to 2.0m	N/A	Yes
		First Floor: 2.0m to 3.0m	N/A	Yes
		Second Floor: 2.0m to 3.0m	N/A	Yes
		South		
		Ground: 2.0m	N/A	Yes
		First Floor: 2.0m to 3.0m	N/A	Yes
		Second Floor: 2.0m to 3.0m	N/A	Yes
B7 Front Boundary Setbacks	4.0m See Note below table	Ground Floor: 4.0m	N/A	Yes
		First Floor: 3.3m to 4.0m	17.5%	No
		Second Floor: 3.3m to 4.0m	17.5%	No
B9 Rear Boundary Setbacks	Merit Assessment	Ground Floor: 2.0m to 2.3m & 8.6m	N/A	Yes
		First Floor: 2.0m to 11.3m & 29.0m	N/A	Yes
		Second Floor: 2.0m to 11.3m & 29.0m	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	33.3% (337.6m ²)	33.4% (339m ²)	N/A	Yes

***Note:** Front setback established in the Land and Environment Court case *Bridgehead Properties Pty*

NORTHERN BEACHES COUNCIL

Ltd v Warringah Council (10608 of 1999).

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	N/A	No
B4 Site Coverage	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Other land in B7 zone	Yes	N/A
B7 Front Boundary Setbacks	No	Yes
Land in the vicinity of Warringah Road, Allambie Road and Wakehurst Parkway, Frenchs Forest with frontage to roads other than Warringah Road or Wakehurst Parkway	Yes	N/A
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Note: The original development application for the community title subdivision of the land into 12 allotments and one (1) community title lot being the access road – Tilley Lane was the subject of an appeal in the NSW Land & Environment Court. On 22 December 1999 the Court issued development consent. Of relevance to this application, the Court issued Consent contains condition No.73, which states:

"Where lots 2 – 13 inclusive have a frontage to the access road (lot 1) a four (4) metres wide landscape strip shall be provided after allowing for vehicular access across the frontage."

In this regard, development Consent No. 2003/559 at No.7 Tilley Lane, Development Consent No. 2003/249 at No.3 Tilley Lane, Development Consent 2003/16 at No.5 Tilley Lane, Development Consent 2002/534 at No. 6 Tilley Lane and Development Consent 2005/642 at No.12 and 13 Tilley Lane have approved front setbacks ranging from 4.0m to 8.0m.

Description of non-compliance

The development includes a lightweight perforated metal awning which frames the front of the building to provide an architectural framing feature and sun shade device to an otherwise flat building facade.

The frame has a setback of 3.3m from the front property boundary and represents a variation of 17.5%.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment

The frame is perforated and of a lightweight and visually permeable construction. While the frame encroaches within the front setback area, the design of the frame will not unreasonably impact upon the sense of openness currently evident along Tilley Lane.

The development is considered to be consistent with this objective.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment

Because of the lightweight construction of the frame, its contribution in providing articulation to the facade of the building and its elevated position above ground level, the proposal does not unreasonably impact upon the visual continuity and pattern of buildings and landscape elements currently evident along Tilley Lane.

The development is considered to be consistent with this objective.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment

Tilley Lane is characterised by industrial/commercial development of varying architectural scale and quality

complimented by landscaped settings.

The rear of the site abuts a bushland reserve which extends in a north-south alignment along the length of Wakehurst Parkway

The proposed frame responds to the visual quality of the area and does not impact upon the bushland reserve to the rear.

The development is considered to be consistent with this objective.

- *To achieve reasonable view sharing.*

Comment

The site is surrounded by industrial/commercial development and bushland (to the west) and does not offer any notable views.

The development is considered to be consistent with this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

C3 Parking Facilities

The Centre accommodates 94 children and provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Child Care Centre	1 space for every 4 children, having regard to the maximum number of children authorised to be cared for at any particular time.	23.5 (24) spaces	24 spaces	N/A
Total		23.5 (24) spaces	24 spaces	N/A

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 \$ 1,219,530		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 11,586
Section 94A Planning and Administration	0.05%	\$ 610
Total	1%	\$ 12,195

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 DA2016/0187 for Construction of a child care centre on land at Lot 4 DP 270323, 4 Tilley Lane, FRENCHS FOREST, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
SK-01 C - Ground Floor Plan	19 April 2016	Leech Harmon Architects
SK-02 B - First and Second Floor Plan	21 April 2016	Leech Harmon Architects
SK-03 B - Roof Plan/Section AA	21 April 2016	Leech Harmon Architects
SK-04 C - Elevation/Section Sheet 1	19 April 2016	Leech Harmon Architects
SK-05 B - Elevation/Section Sheet 2	21 April 2016	Leech Harmon Architects
Finishes Schedule	February 2016	Leech Harmon Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Protection Assessment (Ref: A14011B2)	10 May 2016	Travers Bushfire & Ecology
Report on Geotechnical Investigation	24 June 2016	Douglas Partners
Report on Phase 2 Contamination Assessment	16 February 2007	Douglas Partners
Addendum to Contamination Assessment Report (44540.03.R.001.Addendum)	24 June 2016	Douglas Partners
Statement of Compliance Access for People with a Disability	5 February 2016	Accessible Building Solutions

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

e) The development is to be undertaken generally in accordance with the following:

Landscape Plans

NORTHERN BEACHES COUNCIL

Drawing No.	Dated	Prepared By
LPDA 16-366/1 - Ground Floor Landscape Plan	9 February 2016	Conzept Landscape Architects
LPDA 16-366/2 - 1F & 2F Landscape Plan	9 February 2016	Conzept Landscape Architects
LPDA 16-366/3 - Detail Plan	9 February 2016	Conzept Landscape Architects

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Management Plan	February 2016	Leech Harmon Architects

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	eServices Reference	Dated
NSW Rural Fire Service	Referral Response - NSW Rural Fire Service	14 June 2016

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

3. Occupancy

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Child Care Centre.

A Child Care Centre is defined as:

"a building or place used for the supervision and care of children that:

(a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and

(b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre, but does not include:

(c) a building or place used for home-based child care, or

(d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or

- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or*
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or*
- (h) a service that is concerned primarily with the provision of:*
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or*
 - (ii) private tutoring, or*
 - (i) a school, or*
 - (j) a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises."*

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

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) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.
- (k) 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.
- (l) 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 demolished

The 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.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

(n) 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.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

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

6. 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 \$ 1,219,530.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 11,585.54
Section 94A Planning and Administration	0.05%	\$ 609.77
Total	1%	\$ 12,195.30

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 Warringah's Development Contributions Plan.

7. Security Bond

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).

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

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

8. Stormwater Disposal

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the piped drainage system within the inter-allotment drainage easement that benefits the site.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development. (DACENC06)

9. Vehicle Driveway Gradients and Parking Design

Driveway gradients and the parking design within the private property are to be in accordance AS/NZS 2890.1:2004 Parking facilities - Part 1: Off-street car parking.

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

Reason: To ensure suitable vehicular access and parking to private property. (DACENC13)

10. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety. (DACENC19)

11. 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)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

12. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

14. **Requirement to Notify about New Contamination Evidence**

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment. (DACHPE01)

15. **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

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

16. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

17. **Required Planting**

Planting indicated in the front landscape setback is to comprise only species selected from locally occurring native species (Duffy's Forest Ecological Community) and include at least one tree species.

Reason: To maintain environmental amenity. (DACLAF01)

18. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public

domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings. (DACPLF04)

19. **Bush Fire Emergency Management and Evacuation Plan**

A Bush Fire Emergency Management and Evacuation Plan is to be prepared by a suitably qualified person consistent with 'Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.

The Plan is to make specific arrangements for evacuation to be undertaken from the front of the building in the event of a bush fire.

The Plan is to be submitted to the NSW Rural Fire Service for their approval in accordance with their Bush Fire Safety Authority dated 14 June 2016 (their reference D16/0812).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Safety. (DACPLFPOC1)

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

20. **Noise Impact on Surrounding Areas**

Any noise from the premise shall not exceed more than 5dB(A) above the background level when measured from within any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation and guidelines to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise (DACHPGOG5)

21. **Hours of Operation**

The hours of operation are to be restricted to 6.30am to 6.30pm Monday to Friday (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.

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

22. **Children Numbers**

The maximum number of children to be cared for at any one time on the premises shall not exceed 94 children.

Reason: To ensure compliance with consent and requirements under the Building Code of Australia. (DACPLGOG1)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

NORTHERN BEACHES COUNCIL

Signed

Tony Collier, Senior Development Planner

The application is determined under the delegated authority of:

Phil Lane, Development Assessment Manager

NORTHERN BEACHES COUNCIL

ATTACHMENT A

Notification Plan	Title	Date
 2016/067800	Plans - Notification	02/03/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/081027	Notification Map	15/03/2016

NORTHERN BEACHES COUNCIL

ATTACHMENT C

Reference Number	Document	Date
 2016/067806	Plan - Survey	13/12/2006
 2016/067819	Report - Geotechnical Investigation (Supersceded)	04/09/2007
 2016/067809	Report - Acoustic	27/01/2016
 2016/067821	Report - Accessibility	05/02/2016
 2016/067811	Report - Traffic and Parking Impact Assessment	22/02/2016
 2016/067817	Report - Bushfire Protection Assessment	24/02/2016
 2016/067807	Report - Statement of Environmental Effects	02/03/2016
 DA2016/0187	4 Tilley Lane FRENCHS FOREST NSW 2086 - Development Application - New	02/03/2016
 2016/067510	DA Acknowledgement Letter - Rocker Holdings Pty Ltd	02/03/2016
 2016/067789	Development Application Form	02/03/2016
 2016/067792	Applicant Details	02/03/2016
 2016/067798	Cost Summary Report	02/03/2016
 2016/067800	Plans - Notification	02/03/2016
 2016/068479	Plans - Landscape	03/03/2016
 2016/068487	Plan - Landscape Open Space	03/03/2016
 2016/068494	Plan - Waste Management	03/03/2016
 2016/068500	Plan - Finishes Schedule	03/03/2016
 2016/068510	Photo Montage	03/03/2016
 2016/068409	Plans - External	03/03/2016
 2016/068424	Plans - Internal	03/03/2016
 2016/068541	Plans - Stormwater	03/03/2016
 2016/068578	Plans - Master Set	03/03/2016
 2016/074060	Referral to Environmental Investigations (Industrial Use)	08/03/2016
 2016/073774	File Cover	08/03/2016
 2016/073788	Referral to Ausgrid	08/03/2016
 2016/073795	Referral to to NSW Rural Fire Service	08/03/2016
 2016/075494	Referral Response - Natural Environment Unit (Riparian Lands)	09/03/2016
 2016/079362	Referral Response - Traffic Engineering	14/03/2016
 2016/079743	Referral Response - Environmental Investigations (Industrial Use)	14/03/2016
 2016/081279	Interim Referral Response - NSW Rural Fire Service	15/03/2016
 2016/081027	Notification Map	15/03/2016
 2016/081058	Notification Letter - 29 posted 16/03/2016	15/03/2016

NORTHERN BEACHES COUNCIL

	2016/081799	Referral Response - Development Engineering	16/03/2016
	2016/084145	Referral Response 1 - Natural Environment Unit (Biodiversity)	17/03/2016
	2016/093511	Referral Response - Parks, Reserves and Foreshores	24/03/2016
	2016/106116	Site Coverage and LOS Calculation Table for Tilley Lane Developments	05/04/2016
	2016/107540	Email from applicant with specification on synthetic grass	06/04/2016
	2016/110242	Request for Withdrawal of Development Application - Rocker Holdings Pty Ltd	08/04/2016
	2016/117977	Email from applicant with attached plans of revised wall design	13/04/2016
	2016/117693	Site Photos taken from Reserve at rear	15/04/2016
	2016/117698	Site Photos from Tilley Lane and Site	15/04/2016
	2016/117906	Cheque Receipt - RFS Integrated Referral Payment	15/04/2016
	2016/117970	Email from TC to applicant re finishes to wall	15/04/2016
	2016/125457	Email from applicant with revised plan of fire wall	20/04/2016
	2016/184541	Revised Plans	20/04/2016
	2016/126432	Email from TC to Greg Boston advising of wall and request for updated Bushfire Report	21/04/2016
	2016/146673	Referral Response - Landscape	11/05/2016
	2016/147195	Revised Report - Bushfire Protection Assessment	11/05/2016
	2016/147190	Email from Applicant with attached Bushfire Protection Assessment	11/05/2016
	2016/215411	Revised Plans	11/05/2016
	2016/147228	Referral of Revised Bushfire Protection Assessment and Plans to RFS	12/05/2016
	2016/183595	Referral Response - NSW Rural Fire Service	14/06/2016
	2016/185180	Email from TC to applicant requesting addendum to Geotech Report and Phase 2 Report	15/06/2016
	2016/192155	Proposed Child Care Centre - 4 Tilley Lane FRENCHS FOREST	17/06/2016
	2016/199821	Referral Response - NSW Rural Fire Service	24/06/2016
	2016/204076	Updated Report - Geotechnical Investigation	24/06/2016
	2016/204077	Updated Report - Addendum to Contamination Assessment Report	24/06/2016
	2016/204074	Email from applicant with attached addendums to Geotechnical Report and Contamination Report	24/06/2016
	2016/212778	Referral to Environmental Investigations (Contaminated Lands)	29/06/2016
	2016/215245	Referral Response 2 - Natural Environment Unit (Biodiversity)	30/06/2016
	2016/215385	Email from applicant with corrected plans to reflect correct setback at the second floor	30/06/2016

NORTHERN BEACHES COUNCIL

	2016/215431	Stamped Plans	30/06/2016
	2016/215613	Working Plans	01/07/2016
	2016/218734	Referral Response - Environmental Investigations (Contaminated Lands)	05/07/2016