

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 06 June 2013

14 Hawea Place Belrose - Alterations and additions, use of the premises as a child care centre and signage

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2013/0077
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Responsible Officer	Renee Ezzy
Land to be developed (Address):	Lot 9 DP 222901 , 14 Hawea Place BELROSE NSW 2085
Proposed Development:	Alterations and additions, use of the premises as a child care centre and signage
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council Application Determination Panel
Land and Environment Court Action:	No
Owner:	Jason Wayne Antcliffe Rachael Pamela Antcliffe
Applicant:	Rachael Pamela Antcliffe

Application lodged:	24/01/2013
Application Type	Local
State Reporting Category	Other
Notified:	14/02/2013 to 01/03/2013
Advertised	Not Advertised in accordance with A.7 of WDCP
Submissions	15

Estimated Cost of Works:	\$ 122,000
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ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report)

taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon 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 - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D8 Privacy
 Warringah Development Control Plan - D14 Site Facilities
 Warringah Development Control Plan - D15 Side and Rear Fences
 Warringah Development Control Plan - D18 Accessibility
 Warringah Development Control Plan - D23 Signs

RECOMMENDATION

Approval

SITE DESCRIPTION

Property Description:	Lot 9 DP 222901 , 14 Hawea Place BELROSE NSW 2085
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Hawea Place. The site is legally known as Part Lot 9 in DP 222901, No. 14 Hawea Place, Belrose. The site is irregular in shape with a frontage of 6.475m along Hawea Place, a western boundary of 42.365m, an eastern boundary of 46.61m, and a split rear boundary of 25.12m to the north and 8.535m to the north east adjoining Wakehurst Parkway Primary School. The site has a surveyed area of 828m². The site is located with the R2 Low Density Residential zone and accommodates a single storey red brick dwelling house. Surrounding development consists of one and two storey dwelling houses with a pedestrian walkway located at the eastern end of the bulb of the cul-de-sac accessing Wakehurst Primary School grounds. The site is generally flat and contains minimal vegetation mostly in front of the dwelling.

Map:



SITE HISTORY

Development Application No. DA2012/1109 for alterations and additions to an existing building and change of use to a child care centre was lodged with Council on 21 September 2012. On 25 September 2012 the application was rejected pursuant to Clause 51 of the Environmental Planning and Assessment Regulations 2000. The application failed to provide adequate information for the following:

- A statement of environmental effects addressing the Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan based on the proposed number of children and staff.
- Shadow Diagrams including elevational shadow diagrams for assessment in regard to Part D6 of the Warringah Development Control Plan.
- An Access Report for assessment in regard to Part D18 of Warringah Development Control Plan.
- A Traffic Report for assessment in regard to Parts C2 and C3 and Appendix 1 of Warringah Development Control Plan.
- An Acoustic Report for assessment in regard to Part D3 of Warringah Development Control Plan.

On 16 October 2012, a pre lodgment meeting (PLM2012/0077) was held with the Applicant/Owner. The proposal discussed at this meeting involved a centre for 24 children. The proposal as discussed was not supported due to non-compliances with parking and insufficient information relating to access.

Development Application No. DA2013/0077 for alterations and additions to a dwelling house and change of use to a child care centre was lodged with Council on 24 January 2013. This application is the subject of this assessment report. Council's records do not reveal any further relevant history for the subject site.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for alterations and additions to the existing dwelling and

change of use to a 20 place child care centre. Specifically, the physical changes to the existing structure includes the following:

- Addition to the front, southern facade of the dwelling to provide a new accessible entry, office, staff room and disabled toilet facilities;
- 4 x hardstand parking spaces plus 2 parking spaces within the existing garage

Internal modifications to create:

- 2 x cot rooms;
- 3 internal play areas;
- second office;
- New kitchen layout;
- Laundry;
- Bathroom;
- External concrete ramp access to outdoor play area.

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 A.

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)(iiia) – 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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This Clause is not relevant to this application.

Section 79C 'Matters for Consideration'	Comments
	<u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested. <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>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). 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 insurance requirements under the Home Building Act 1989. 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. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This Clause is not relevant to this application.
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 locality	(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. Specifically, it is noted that the use of the outdoor play area located in the rear northern corner of the site shall be restricted to the hours of 8.30am to 11.30am and 3.00pm to 5.00pm Monday to Friday by a condition of consent allowing (ii) The proposed development will not have a detrimental social impact in the locality as it provides additional child care facilities for up to 20 children aged between 6 weeks and 3 years. In terms of additional noise impacts upon surrounding residential development, the use of the premises is proposed to operate from 7.30am to 6.00pm Monday to Friday, which are considered acceptable hours of operation in this location. (iii) While there are other childcare facilities in the vicinity of the subject site, the proposal is not considered to have a detrimental economic impact on the locality but is considered to introduce economic competition. In this context, the NSW Land and Environment Court, in <i>Fabcot Pty Ltd v Hawkesbury City Council</i>, stated: <i>"The Trade Practices Act 1974 (Cth) and the Fair Trading Act 1987 are the appropriate vehicles for regulating economic competition. Neither the Council nor this Court is concerned with the mere threat of economic competition between competing businesses. In an economy such as ours</i>

Section 79C 'Matters for Consideration'	Comments
	<i>that is a matter to be resolved by market forces, subject to the Trade Practices Act and the Fair Trading Act. It is not part of the assessment of a proposal under the Environmental Planning and Assessment Act for a consent authority to examine and determine the economic viability of a particular proposal or the effect of any such proposal on the economic viability of a trade competitor. Moreover, it is at least arguable from the fact that the Trade Practices Act now applies to local government councils, that if a local council were to refuse or to limit a proposal for development on the ground of competition with a trade competitor, it could be guilty of anti-competitive conduct contrary to Pt 4 of that Act."</i> Accordingly, no objection is raised to the proposal in the context of economic impact.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development as it is a permissible use within this locality. In addition, the proposal will provide a use which has a compatible connection with the surrounding land uses. The proposal provides adequate parking provision to service the intended use of the site and is considered to contain adequate separation for surrounding sites. In terms of potential noise issues associated with this use, these are considered to be adequately managed through the imposition of a condition limiting the hours of use for the external play area between 8.30am to 11.30am and 3pm to 5pm Monday to Friday.
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	The wider public interest is served by the continued maintenance of the site, and its ability to provide an appropriate land use and a service within the immediate locale and the broader community.

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 process council is in receipt of 15 submission/s from:

Name:	Address:
Karen Elizabeth Ryan	2 Hawea Place BELROSE NSW 2085
Raffi Hacopian Jenick Hacopian	8 Hawea Place BELROSE NSW 2085
Joyce Rae	10 Hawea Place BELROSE NSW 2085

Name:	Address:
Frank Van Den Brink	9 Hawea Place BELROSE NSW 2085
F Van Den Brink	9 Hawea Place BELROSE NSW 2085
L Van Den Brink	9 Hawea Place BELROSE NSW 2085
Thomas Ka Hang Yiu Eunice Yiu	7 Hawea Place BELROSE NSW 2085
Gregory Allen Spicer	38 Karina Crescent BELROSE NSW 2085
Mary Isobel Shepherd	11 Hawea Place BELROSE NSW 2085
Phillip Garrison	3 Hawra Place BELROSE NSW 2085
George Garisyne	3 Hawea Place BELROSE NSW 2085
Bee Liangkorsakul	14 Hawea Place BELROSE NSW 2085
Barbara Jones	12 Hawea Place BELROSE NSW 2085
Leslie Thomas Lewis	41 Pringle Avenue BELROSE NSW 2085
Justin Noel John Laughton	1 Hawea Place BELROSE NSW 2085

In addition to the individual submissions, Council received a petition containing 17 names. The following issues were raised in the submissions and each have been addressed below:

Submission Issue	Response
Parking - inadequate off street parking - single vehicle access - insufficient vehicle turning areas - no staff parking provided	- The proposed development includes 5 compliant parking spaces which is consistent with the requirements of WDCP (1 space per 4 children). Council's Traffic Engineer has raised no concerns with the proposed parking provision. - The single vehicle driveway access has been reviewed by Council's Traffic Engineer who is satisfied with this form of access as it enables cars to enter and leave in a forward direction. - The swept path diagrams submitted with the application indicate that all spaces are accessible either in one motion or by the use of a single reverse manoeuvre which is considered acceptable by Council's Traffic Engineer. - The car parking requirements of 1 space per 4 children contained within WDCP has been translated from the NSW Roads and Maritime Services Guide to Traffic Generating Developments and incorporates the required staff ratios within the provision.
Traffic	The Assessment of Traffic and Parking Implications prepared by Transport and Traffic Planning Associates dated January 2013

- Hawea Place unable to cope with existing traffic flow
- Hawea Place is used as a drop off point for Wakehurst Public School, parents park illegally
- The proposed centre will increase the traffic flow and increase a dangerous environment
- Traffic generation figures provided are misleading

indicates that the anticipated traffic movements generated by the proposed child care centre would be in the range of 10 vehicle trips per hour in the AM peak period and 9 vehicle trips per hour in the PM peak period. The increase in vehicle trips has been reviewed by Council's Traffic Engineer who has confirmed that *"the traffic generation from this site does not exceed the environmental capacity of Hawea Place, and will not have any significant adverse impacts on the surrounding road network."*

- The proposed parking provision of five (5) spaces provided on the site is consistent with Appendix 1 of WDCP and has been assessed as acceptable by Council's Traffic Engineer. Ongoing issues with illegal parking within Hawea Place from Wakehurst Public School is beyond the scope of this application and is a matter for Council's rangers and or the Police.
- The figures provided by Transport and Traffic Planning Associates are consistent with Council's Traffic Engineer's assessment of the traffic generation for this development and are acceptable.

Noise

The child care centre is proposed to operate between 7.30am and 6.00pm Monday to Friday. A Childcare Noise Assessment prepared by Noise and Sound Services dated January 2013 was submitted with the Development Application. The report concluded that the proposed development meets the noise criterion for children playing in both the indoor and outdoor play areas and also for mechanical plant equipment subject to a number of recommendations. Specifically, one of the recommendations included upgraded fencing adjoining the outdoor play area. The report recommends a 2.1m high fence constructed from Colorbond or lapped and capped timber.

Subject to conditions requiring the recommendations of the report to be implemented, it is considered noise impacts as a result of the development will be sufficiently mitigated. This issue does not warrant further amendment or refusal of the application.

Zoning

The site is zoned R2 Low Density Residential. In accordance with WLEP 2011, 'child care centres' are permissible within the zone, subject to consent. There is no question about the permissibility of the proposal within this zone. This matter does not hold determining weight.

Privacy

The concerns raised in relation to privacy appear to be more focused on the description by the applicant about the extent to which the site adjoins the surrounding properties.

To clarify, the area at the rear of No. 14 Hawea Place where the outdoor play area will be located partly joins No. 16 Hawea Place to the south-

east, Wakehurst Public School to the north-east, and 15 Kapyong Street to the north. While the site shares a boundary with No. 16 Hawea Place of 46.61m, only 9.5m (20%) of that boundary will adjoin the play area.

The boundary with Wakehurst Public School is 8.535m and the boundary shared with No. 15 Kapyong Street measures 25.12m approximately 16m (64%) will adjoin the outdoor playground area.

The application was accompanied by a Noise Assessment prepared by Noise and Sound Services dated January 2013. The report makes the following recommendation:

"A 2.1 metre high acoustic fence (eg. 'Colorbond' metal, masonry or lapped and capped timber) should be provided along the site boundaries surrounding the outdoor play area. Additionally, the number of children outside at any one time should be restricted to no more than 10 in order to achieve the noise goal of 'background plus 5 dB' and allow unrestricted outdoor play time. If more than 10 children are outside, play time should be restricted to 2 hours each day."

It should be noted that the outdoor play area is located at the rear of the site and adjoins the rear yards of the adjoining residential allotments. Subject to the development implementing the recommendations contained within this report, the proposal is considered acceptable in terms of privacy. Accordingly, this issue does not warrant further amendment or refusal of the application.

BCA compliance

It appears the current proposal does not comply and still requires further information as part of the construction documentation.

The Applicant submitted a BCA Compliance Assessment prepared by BCA Vision dated 29 November 2012. This report along with the application was referred to Council's Building Certification Team who raised no objections subject to the imposition of relevant conditions.

Contamination

Anecdotal evidence that asbestos is present in the garden. SEE states that *"no testing or assessment has been completed for contamination of the subject site."*

The application was referred to Council's Environmental Health and Protection team who have reviewed the details of the proposed development and provided a specific condition of consent relating to asbestos. The condition requires the site to be inspected by an appropriately qualified person (such as an occupational hygienist or environmental consultant) a report provided detailing whether any asbestos or hazardous materials exist on the site. Should any hazardous materials be identified in this process, a Hazardous Substances Management Plan created in accordance with the relevant legislation would be required to be submitted to the PCA.

This condition adequately addresses any concerns in relation to the presence of asbestos on the site. Subject to this condition, no further amendment or refusal of the application is considered warranted.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments										
Building Assessment - Fire and Disability upgrades	No objections subject to the inclusion of 1 condition which relates to fire safety.										
Development Engineers	The submitted drainage design by E2 Civil and Structural Design Pty Ltd has been assessed and is satisfactory subject to some amendments. A condition for the amendments to be updated on the drawings prior to the release of the construction certificate has been provided below. The proposed driveway is satisfactory however the existing dish drain will need to be reconstructed to kerb and gutter to permit the safe construction of the stormwater outlet pipe. A condition has also been provided for this requirement. Development Engineers raise no objections to the release of the DA subject to the following conditions.										
Environmental Health and Protection (Food Premises)	<table border="1"> <tr> <td data-bbox="523 862 1161 936">Was sufficient documentation provided appropriate for referral?</td><td data-bbox="1161 862 1447 936">YES</td></tr> <tr> <td data-bbox="523 936 1161 1016">Are the reports undertaken by a suitably qualified consultant?</td><td data-bbox="1161 936 1447 1016">YES</td></tr> <tr> <td colspan="2" data-bbox="523 1016 1447 1061"></td></tr> <tr> <td data-bbox="523 1061 1161 1285"> Have you considered the following? • Review Statement of Environmental Effects, consider ongoing use: - Childcare, use AS 4674 (kitchen) and BCA toilets </td><td data-bbox="1161 1061 1447 1285">YES</td></tr> <tr> <td data-bbox="523 1285 1161 1440">Recommendation</td><td data-bbox="1161 1285 1447 1440">APPROVAL - subject to conditions</td></tr> </table>	Was sufficient documentation provided appropriate for referral?	YES	Are the reports undertaken by a suitably qualified consultant?	YES			Have you considered the following? • Review Statement of Environmental Effects, consider ongoing use: - Childcare, use AS 4674 (kitchen) and BCA toilets	YES	Recommendation	APPROVAL - subject to conditions
Was sufficient documentation provided appropriate for referral?	YES										
Are the reports undertaken by a suitably qualified consultant?	YES										
Have you considered the following? • Review Statement of Environmental Effects, consider ongoing use: - Childcare, use AS 4674 (kitchen) and BCA toilets	YES										
Recommendation	APPROVAL - subject to conditions										
Landscape Officer	No objections in relation to landscape issues subject to conditions.										
Natural Environment (Drainage Assets)	No comments or conditions for the proposed development.										
Traffic Engineer	The parking provision for this site (5 spaces) complies with the requirements of part C of the LEP. The applicant has demonstrated by the use of swept paths that all spaces are accessible either in one motion or by the use of a single reverse manoeuvre. Based on this parking provision the vehicles visiting the site will not be required to park on Hawea Place. The traffic generation from this site does not exceed the environmental capacity of the Hawea Place, and will not have any significant adverse impact on the surrounding road network. There are no objections to this development on traffic grounds.										

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.

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 used for residential purposes for a significant period of time with no prior land uses.

While anecdotal evidence has been provided stating that there is asbestos present on site, subject to the appropriate inspection and reporting being undertaken and verified prior to the issue of a Construction Certificate it is considered that the site poses no risk of contamination. A condition of consent has been recommended for imposition to ensure the appropriate reporting is provided. 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.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of	The proposed signage is considered compatible with the surrounding area as it fits the definition provided for a ' <i>business identification sign</i> '. The	YES

the area or locality in which it is proposed to be located?	dictionary within WLEP 2011 states: <i>"business identification sign means a sign:</i> <i>(a) that indicates:</i> <i>(i) the name of the person or business, and</i> <i>(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and</i> <i>(b) that may include the address of the premises or place and a logo or other symbol that identifies the business,</i> <i>but that does not contain any advertising relating to a person who does not carry on business at the premises or place."</i> Further, the signage will be discreetly located with the main sign on the fence at the front of the site and the second sign with the centre name only located within the the front gable of the property.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is consistent with the style of advertising signage used for other childcare centres across the LGA.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The design of the signage does not detract from the visual quality or amenity of the surrounding area as the primary sign it is sensitively located within the fence line and the sign "Hawea House" is located within the gable roof.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	There are no significant views or vistas available across this site.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage is not considered to dominate the skyline.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not impact on any other advertisers	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	As the main business identification sign is located on the front fence it is considered to site proportionately within the setting of the site. Likewise, the 'Hawea House' sign located within the gable is adequately separated from the business identification sign and is commensurate with the overall structure.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will maintain the current level of visual interest in this section of Hawea Place with upgraded landscaping, fencing and fresh finishes to the structure.	YES

Does the proposal reduce clutter by rationalising and simplifying existing advertising?	As there is currently no advertising in this part of Hawea Place, there is no requirement to rationalise.	YES
Does the proposal screen unsightliness?	The whole front setback and frontage of the structure will be upgraded and enhanced. Accordingly, there is no unsightliness which will require screening.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	All advertising is proposed to be within the 1.2m fence height and within the gable end of the structure. There will be no elements protruding above the building or tree canopy.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The graphics used for the business identification signage is sympathetic to the proposed picket fence it will be attached to at the front of the site. The sign located within the gable is commensurate with the single storey building form. The signage maintains a connection with the residential area it will be located in providing adequate compatibility.	YES
Does the proposal respect important features of the site or building, or both?	The signage remains subservient to the built environment it sits within.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	As identified previously, the graphics used in the signage is representative of a domestic dwelling house providing a connection with the surrounding environment.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage is simple in its application with no additional platforms or lighting included. The logo for the business forms the only graphic on the signage.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The proposed signage is not illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	Not applicable to this application.	YES
Is the illumination subject to a curfew?	Not applicable to this application.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage is located at the end of a cul-de-sac and is not considered to reduce the safety of pedestrians or cyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The main signage is located within the low level fence line and will not obscure sightlines.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

SEPP (Infrastructure) 2007

Ausgrid

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 application was referred to Ausgrid for comment. No response had been received at the time of writing this report. In this regard, the subject application is considered to satisfy the provisions of Clause 45 of SEPP Infrastructure.

Warringah Local Environment Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A	N/A	N/A	N/A
Height of Buildings:	8.5m	6.05m	N/A	Yes
Rural Subdivision:	N/A	N/A	N/A	N/A
No Strata Plan or Community Title Subdivisions in certain rural and environmental zones:	N/A	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes

Clause	Compliance with Requirements
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
5.8 Conversion of fire alarms	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
Part 6 Additional Local Provisions	Yes
6.4 Development on sloping land	Yes
Dictionary	Yes
A-H	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	3.5m	N/A	Yes
B3 Side Boundary Envelope	4m	Complies	N/A	Yes
B5 Side Boundary Setbacks	0.9m	1.35m to east 1.7m to west	N/A N/A	Yes Yes
B7 Front Boundary Setbacks	6.5m	7.25m to hardstand parking 20.7m to building	N/A N/A	Yes Yes
B9 Rear Boundary Setbacks	6m	1.5m to the existing building	75%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (331.2m ²)	34.1% (282.13m ²)	5.9%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
Side Setback Exceptions - R2	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Front Boundary Setbacks - R2	Yes	Yes
R2 - All other land in R2 Zone	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B9 Rear Boundary Setbacks	No	Yes
Rear Boundary Setbacks - R2	No	Yes
All other land under R2	No	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip 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
Non-Residential Development	Yes	Yes
Part D Design	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D3 Noise	Yes	Yes
D5 Orientation and Energy Efficiency	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
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	No	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
D23 Signs	Yes	Yes
Part E The Natural Environment	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B9 Rear Boundary Setbacks

Description of non-compliance

The site with the current building configuration has a rear setback measuring 1.56m at the north-west corner of the building. The existing building setbacks are maintained as part of the proposed alterations and additions to the structure. While this situation is an existing non-complying element, the scope of works proposed includes replacement of the existing tiled roof with a new Colorbond roof which falls within the rear building setback.

Merit consideration:

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

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The site with the proposed works will maintain suitable areas for deep soil landscaping both at the front and rear of the site.

- *To create a sense of openness in rear yards.*

Comment:

The works reconfigure the landing at the rear of the existing structure to incorporate a ramp access. Notwithstanding, the remaining space at the rear of the building is to be used as an outdoor play area for the centre's children. The use of the rear yard as a play area is considered an appropriate use of this space and maintains the openness of this area.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

As detailed within the 'submissions' section of this report, the Applicant has provided a Noise Assessment prepared by Noise and Sound Services dated January 2013 which provides a number of recommendations in relation to maintaining acceptable noise levels. The recommendation includes the erection of a 2.1m high acoustic fence around the boundaries of this outdoor play area. The use of fencing and the proposed landscape plantings are considered to adequately preserve the amenity of the adjacent land.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

As the proposed works are essentially maintaining the existing single storey building

footprint with some minor additions at the front of the structure, the site is considered to maintain the visual continuity and pattern of buildings.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

As the building is remaining a single storey structure there will be no new opportunities for unreasonable overlooking of adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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.

C2 Traffic, Access and Safety

While the proposed development complies with the required parking and traffic provisions and has been assessed by Council's Traffic Engineer as acceptable, issues relating to traffic have been flagged as a matter of major concern by the submissions received. Accordingly, a more detailed analysis of the objectives of this planning rule is provided as follows:

- *To minimise traffic hazards.*

Comment:

The proposed design incorporates space to facilitate vehicle turning movements within the site to enable vehicles to enter and leave in a forward direction. These swept path movements have been assessed by Council's Traffic Engineer and adequately demonstrate compliance. In addition, the layout provides for a separate pedestrian pathway along the western boundary of the site to reduce hazards associated with pedestrian and vehicle movements by keeping them separated.

- *To minimise vehicles queuing on public roads.*

Comment:

The proposed development provides 5 parking spaces compliant with the requirements for a 'child care centre' identified in Appendix 1 of WDCP of 1 space per 4 children. Council's Traffic Engineer has reviewed the proposed parking and traffic arrangements and the Applicant's traffic and parking report prepared by Transport and Traffic Planning Associates dated January 2013 and have raised no concerns in relation to vehicle movements or traffic generation.

- *To minimise the number of vehicle crossings in a street.*

Comment:

The proposed development does not require any additional driveway crossings. The site will use the existing kerb and gutter crossing location and will reform the driveway crossing within the verge to enable a different driveway location within the site.

- *To minimise traffic, pedestrian and cyclist conflict.*

Comment:

Council's Traffic Engineer has reviewed the proposed development and has confirmed that the traffic generation from this development does not exceed the capacity for Hawea Place. Further, the site layout provides a dedicated pedestrian access along the western boundary separated from the vehicle access.

- *To minimise interference with public transport facilities.*

Comment:

Public transport facilities available in this area consists of bus services operated by Forest Coach Lines. Services to Chatswood, Warringah Mall and the City are all available at the intersection of Hawea Place and Pringle Avenue and Glen Street which is within 330m of the subject site. The proposal does not cause any interference with these facilities.

- *To minimise the loss of "on street" kerbside parking.*

Comment:

As the proposed development meets the minimum requirement for on site parking, there is no anticipated loss of on street kerb parking likely to occur as a result.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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 proposed development indicates the availability of parking on site to be 5 spaces. It should be noted that the existing garage does not meet the minimum dimension requirements for two (2) enclosed parking spaces and it therefore counted as only 1 compliant parking space.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposed development does not comply with the requirement for 40% of the site providing landscaped open space. The landscaping provision for the scheme is 282.13m² (34.1%) which is

49.07m² (5.9%) short of the required landscaping.

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The proposed landscaping incorporates adequate planting within the front setback of the site. The planting will provide an improved setting within this streetscape which will provide a positive enhancement. The layout of the planting frames the pedestrian access path visually directing people to the front entry of the building.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

There is no existing indigenous vegetation, topographic features or habitat for wildlife within the site which requires protecting or enhancing.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The landscape design incorporates a range of shrubs and trees including two (2) Eucalyptus trees with a mature height of 3-4m and two (2) Cherry Blossom trees with a mature height of 2-3m. In addition to these, the proposal includes extensive Lilly Pilly screen hedging which combine to provide landscaping which is commensurate with the subject building and surrounding dwellings.

- *To enhance privacy between buildings.*

Comment:

Notwithstanding the proposed structure remains single storey, the development includes construction of a new 2.1m high solid fence surrounding the outdoor play area and screen hedges to a large proportion of the boundary areas. The site maintains adequate privacy to and from the adjoining properties.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The primary outdoor area is within the rear northern section of the site which has been identified as the outdoor play area. This space has an area measuring approximately 140m² and is considered adequate in meeting the needs of the future occupants.

- *To provide space for service functions, including clothes drying.*

Comment:

Adequate areas of the site are maintained for the provision of these functions.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Council's Development Engineer has raised no objections to the proposed development subject to the imposition of specific conditions of consent. Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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.

D3 Noise

Concerns were raised within the submissions received in relation to noise from the proposed child care centre. The application was accompanied by a Noise Assessment undertaken by Noise and Sound Services dated January 2013, which provided recommendations to minimise any adverse noise impacts from the development. One of the main recommendations includes the installation of a new boundary fence adjoining the outdoor play areas. The fence is to be a 2.1m high solid acoustic fence of 'Colorbond' or lapped and capped timber. No objection is raised to this form of treatment in this instance and subject to a condition being imposed in this regard, the proposal is considered acceptable in terms of noise.

D8 Privacy

Concerns were raised within the submissions received for this application in relation to privacy. Accordingly, the application has been considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

Comment:

While the proposed works includes additions to the front of the building, the development remains a single storey structure which does not contain any windows or elevated platforms which could overlook adjoining properties. The Applicant has submitted a Noise Assessment prepared by Noise and Sound Services dated January 2013 which has assessed the predicted effect of noise from the proposed child care centre on the occupants of the neighbouring properties.

The report provides recommendations in relation to restrictions on the use of

the outdoor play area and the boundary fencing adjoining the outdoor play area. These recommendations are endorsed through condition of consent.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposed works have included methods of reducing noise and privacy impacts on the surrounding properties while maintaining the residential appearance of the development. The proposed design is considered a suitable response in this environment.

- *To provide personal and property security for occupants and visitors.*

Comment:

Adequate personal and property security is provided on the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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.

D14 Site Facilities

The proposed development provides adequate space for garbage and recycling bin storage. The Applicant has indicated that the bins will be located to the east of the garage area. The site will rely upon a private commercial service to undertake additional garbage collection weekly and recycling collection fortnightly.

D15 Side and Rear Fences

The development includes a recommendation from the noise assessment for a 2.1m high fence around the outdoor play area at the rear of the site to provide a suitable acoustic barrier between this area and the rear yards of the adjoining dwellings. As this fencing would be 300mm higher than a standard boundary fence, the proposal is considered against the underlying Objectives of the Control as follows:

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

While the height of the fence proposed is higher by 300mm than a standard boundary fence, the type of materials recommended for use by the consultant are consistent with those used for boundary fences being either Colorbond or lapped and capped timber fencing. Accordingly, the overall impact will be minimal when viewed from the surrounding properties and will present as a standard fence.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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.

D18 Accessibility

The application includes a Disability Access Report prepared by Cheung Access dated 22 January 2013. The report has provided a review of the proposed development having regard for the requirements contained within the Building Code of Australia (BCA), Commonwealth Disability (Access to Premises - Buildings) Amendment Standards (2010), relevant Australian Standards and the Disability Discrimination Act 1992 (DDA). The report concludes that the proposed plans generally meet the relevant requirements and recommends further detailing prior to Construction Certificate stage.

The proposed development is considered in relation to the underlying Objectives of the Control as follows:

- *To ensure vehicular access points for parking, servicing or deliveries, and pedestrian access are designed to provide vehicular and pedestrian safety.*

Comment:

The layout for the proposed centre includes divided pedestrian and vehicular access which provides gradients appropriate to allow wheelchair access. The site layout also incorporates space for an accessible car space adjoining the entrance area to the building.

- *To ensure convenient, comfortable and safe access for all people including older people, people with prams and strollers and people with a disability.*

Comment:

The access report states "*Compliance can be achieved to the maximum extent possible with respect to circulation spaces and pathway widths required on pathways to and within the development to comply with the BCA.*"

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 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.

D23 Signs

The proposed development includes two (2) separate signs as part of this application (refer to Advertising Signs design by JAH Design Services):

Sign 1 - Freestanding Sign

Comment - This sign is to be located above the front fence near the pedestrian access into the site. The sign will be 1200mm long and 600mm high.

Sign 2 - Wall Sign

Comment - This sign contains the wording 'Hawea House' and is to be attached to the gable roof end of the new building works at the front of the dwelling. The sign is 4000mm long and 600mm high.

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 \$ 122,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.45%	\$ 549
Section 94A Planning and Administration	0.05%	\$ 61
Total	0.5%	\$ 610

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.

The proposal has been assessed against the relevant matters for consideration under Section 79C of the EP&A Act 1979. 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 specified in S.5(a)(i) and (ii) 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 DA2013/0077 for Alterations and additions, use of the premises as a child care centre and signage on land at Lot 9 DP 222901, 14 Hawea Place, BELROSE, 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
DA01 - Site Plan	January 2013	JAH Design Services
DA03 - Proposed Ground Floor Plan	January 2013	JAH Design Services
DA04 - NE + SW Elevations	January 2013	JAH Design Services
DA05 - SE + NW Elevations	January 2013	JAH Design Services
DA06 - Sections	January 2013	JAH Design Services
DA07 - Landscape Concept	January 2013	JAH Design Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Assessment of Traffic and Parking Implications	January 2013	Transport and Traffic Planning Associates
Noise Assessment (Report No. nss 21875 - final)	January 2013	Noise and Sound Services
Disability Access Report (Ref. 091130)	22 January 2013	Cheung Access

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

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

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Occupancy**

Nothing in this consent shall authorise the use of the building 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:

"child care centre means 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)

3. **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)

FEES / CHARGES / CONTRIBUTIONS

4. **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 \$ 122,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.45%	\$ 549

Section 94A Planning and Administration	0.05%	\$ 61
Total	0.5%	\$ 610

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.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

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

5. **Vehicle Crossings Application Formwork Inspection**

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

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

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

6. **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)

7. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Council's current On-site Stormwater Detention Technical Specification, and generally in accordance with the concept drainage plans prepared by E2 Civil and Structural Design Pty Ltd, drawing number 12.349 SW1, SW2 and SW3 dated 13Dec 2012.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. The weir across the proposed driveway is to be set at a maximum RL of 167.75, to ensure any surcharging from the above ground basin is directed down the driveway
2. A freeboard of 150mm is to be provided to the garage finished floor level.
3. The RHS outlet pipe from pit 4 to the kerb is to have a minimum grade of 1%.
4. The RHS to the kerb is to be constructed to the proposed new kerb between the existing driveway to number 12 and the proposed new driveway for the subject site.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's current On-site Stormwater Detention Technical Specification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC20)

8. Asbestos & Hazardous Material

In relation to the demolition of the existing building (or part of a building) on the site:

a) A report prepared by an appropriately qualified person (such as an occupational hygienist or environmental consultant) is to be submitted to the Certifying Authority, detailing whether any asbestos or hazardous materials exist on the site that are affected by the proposed building works (e.g. lead in paints and ceiling dust or asbestos).

Note: If no hazardous materials are identified, the demolition may proceed in accordance with Australian Standard AS2601 – The Demolition of Structures and the following conditions, including dust control and WorkCover requirements.

b) Should any hazardous materials be identified as per item (a), a Hazardous Substances Management Plan (HSMP) shall be submitted to the Certifying Authority at least seven (7) working days prior to work commencing. The HSMP must satisfy the requirements of relevant legislation and Australian Standard AS2601 – The Demolition of Structures. The report shall contain details regarding:

- a) The type of hazardous material
- b) The level or measurement of the hazardous material in comparison to National Guidelines;
- c) Proposed methods of containment; and
- d) Proposed methods of disposal;
- e) Details of signage to be provided on the site to comply with the provisions of the Occupational Health and Safety Regulation 2001, to ensure persons are warned, by the use of signs, labels or other similar measures, of the presence of asbestos or asbestos-containing material in a place at which construction work is being carried out.

Details demonstrating compliance with these requirements are to be approved by the Certifying Authority *[prior to the commencement of works and submitted with the Construction Certificate application]*.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily (DACHPCPC2)

9. **Trees and / or Landscaping**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Existing trees which must be retained

All trees not indicated for removal on the approved plans.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

10. **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**

*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)

11. Acoustic Fence adjoining the Outdoor Play Area

A 2.1m high acoustic fence constructed from lapped and capped timber in accordance with the requirements contained in the Noise Assessment prepared by Noise and Sound Services dated January 2013, (measured from existing ground level) is to be erected along the private property boundaries only (No.15 Kapyong Street and No. 16 Hawea Place) adjoining the outdoor play area as shown on the approved plans.

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

Reason: In order to maintain acoustic privacy to the adjoining / nearby property. (DACPLC06)

12. Front Fencing

The proposed front fence shall be a maximum of 1.2 metres in height when measured from existing ground level.

No barbed wire or broken glass or the like is permitted. Unless agreement has been reached with adjoining property owners in accordance with the requirements of the Dividing Fences Act 1991, all works are required to be constructed wholly within the confines of the subject site.

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

Reason: In order to maintain a cohesive streetscape, the enablement of casual visual surveillance of public open spaces and consistency with the provisions of Warringah Local Environment Plan. (DACPLC08)

13. Compliance with NSW Department of Community Services Requirements

The building, site facilities and childcare facilities are to comply with the conditions of this consent in association with the NSW Department of Community Services requirements, applicable to meet the conditions and legislated standards for NSW childcare centre facilities.

Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Statutory (DACPLCPCC1)

14. Provision of Secure Bicycle Parking Facilities

Secure bicycle parking facilities for a minimum of 2 bicycles is to be provided on the site in accordance with the requirements of the NSW Planning Guidelines to Walking and Cycling. Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure adequate secure facilities are provided for bicycles users. (DACPLCPCC2)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To maintain the existing profile of the nature strip/road reserve. (DACENE01)

16. Vehicle Crossings

The provision of 1 vehicle crossing 4 metres wide in accordance with Warringah Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

17. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works. (DACENE06)

18. Kerb, Gutter and Layback Construction

The existing layback along the frontage of the site is to be reconstructed as kerb and gutter from the driveway crossing to number 12 to the proposed new crossing for the development site in accordance with Warringah Council Drawing No A4-2276/A and specifications.

A layback 4 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276/B and specifications.

Reason: To ensure protection of the proposed stormwater outlet from the site and provide suitable vehicular access to private property. (DACENE08)

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

19. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

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

Reason: To create encumbrances on the land. (DACENF01)

20. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To identify encumbrances on land. (DACENF02)

21. **Restriction as to User for On-site Stormwater Detention**

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

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

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

22. **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)

23. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

24. **Positive Covenant for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to

maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

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

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.
(DACENF12)

25. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

26. Required Planting

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Min Pot Size
All hedges and trees	As indicated on Landscape Concept Plan Dwg No.DA07 dated Janusary 2013 prepared by JAH	As indicated on the Landscape Plan	As indicated on the Landscape Plan

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

Reason: To maintain environmental amenity. (DACLAF01)

27. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

28. 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)

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

29. Allocation of Spaces

Five (5) car parking spaces provided shall be provided, made accessible and maintained at all times.

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space shall be line marked and numbered or signposted to indicate its allocation.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

30. Hours of Operation

The hours of operation are to be restricted to Monday to Friday 7.30am to 6pm (inclusive).

Upon expiration of the permitted hours, 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)

31. No Illumination

No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

32. Delivery Hours

No deliveries, loading or unloading associated with the premises are to take place between the hours of 6pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

33. Commercial Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

34. Number of children

The maximum number of children to be cared for at any one time on the premises shall not exceed 20 children, ranging in age from 0 to 3 years.

Reason: Information and clarification of the terms of this consent. (DACPLGOG1)

35. **Use of Outside Play areas**

The use of the outside play area as shown on the approved plans must be restricted to no more than 10 children at any one time between the hours of 8.30am to 11.30am and 3.00pm to 5.00pm Monday to Friday.

Reason: To prevent loss of amenity to the area. (DACPLGOG2)

