

**REPORT TO APPLICATION DETERMINATION PANEL**

**Meeting held on 22 September 2016**

**22 Rodborough Road Frenchs Forest - Alterations and additions to a building and use of part of the premises as a child care centre**

**DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>Application Number:</b>	DA2016/0275
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<b>Responsible Officer:</b>	Lashta Haidari
<b>Land to be developed (Address):</b>	Lot 35 DP 842139, 22 Rodborough Road FRENCHS FOREST NSW 2086
<b>Proposed Development:</b>	Alterations and additions to a building and use of part of the premises as a child care centre
<b>Zoning:</b>	LEP - Land zoned B7 Business Park
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Application Determination Panel
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	MITSA Pty Ltd
<b>Applicant:</b>	Building Blocks

<b>Application lodged:</b>	24/03/2016
<b>Application Type:</b>	Integrated
<b>State Reporting Category:</b>	Other
<b>Notified:</b>	05/08/2016 to 23/08/2016
<b>Advertised:</b>	06/08/2016
<b>Submissions:</b>	20
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 944,797.00
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**ASSESSMENT INTRODUCTION**

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

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- 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

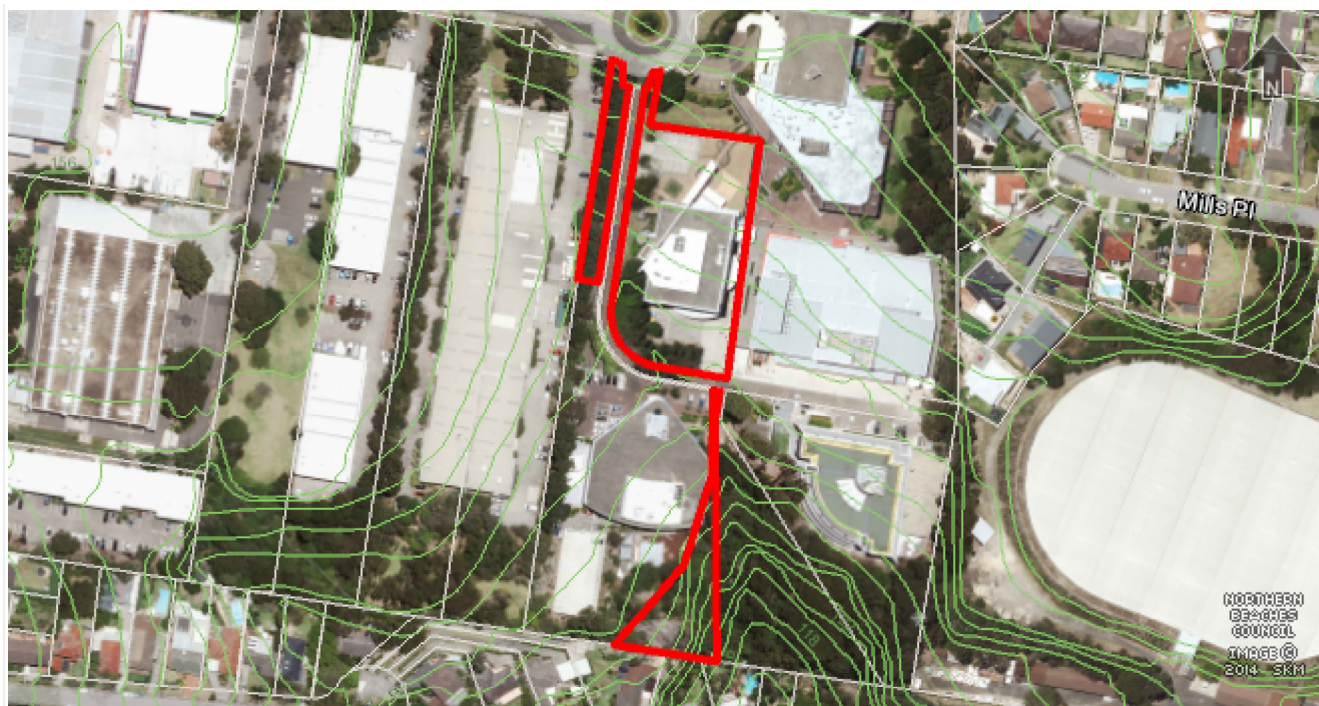
Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D3 Noise

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 35 DP 842139 , 22 Rodborough Road FRENCHS FOREST NSW 2086
<b>Detailed Site Description:</b>	<p>The subject site is located south of the round-about at the end of Rodborough Road, Frenchs Forest.</p> <p>The site consists of one (1) allotment and is on land zoned B7 Business Park. The site has a surveyed area of 6,846 square metres and is irregular in shape due to the existing subdivision pattern.</p> <p>Presently the site is accommodated by a 2 (two) storey office / warehouse building with mature landscaped surrounds. Access to the site is via a driveway south of Rodborough Road which services several surrounding allotments.</p> <p>Topographically the site declines from the north-west corner to the south-east corner and there are no significant topographical features present. The site has mature landscaping throughout which is consistent with that of a Business Park setting.</p> <p>Surrounding developments consist of other Business Park buildings of varying use, architectural period, scale and construction.</p>

Map:



## SITE HISTORY

### Application Background

The application was lodged with Council on 24 March 2016. No pre-lodgement meeting was requested or conducted for the proposal.

Assessment of the proposal found the following key issues:

- No Owner's Consent
- Inconsistencies and conflicting information provided
- Insufficient information provided to properly assess the impact of traffic and parking allocation
- Insufficient information provided to properly assess the acoustic impact of the development.

An opportunity was presented to the applicant by letter dated 18 July 2016 to withdraw the application within seven days from the date of the letter with a view to the applicant preparing the required information then resubmitting an application at a later date. The applicant was advised in that letter that failure to withdraw the application would result in Council determining the application based upon the information provided at lodgement.

The application was placed on advertising and notification and twenty (20) submissions were received.

On 26 July 2016 the applicant lodged additional information to address the concerns raised by Council. The additional information received has been considered within this report and placed on re-exhibition/re-notification from 5 August 2016 till 23 August 2016. As a result of the re-notification, two (2) submissions were received.

## PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to use the existing Level 1 of the existing commercial/office building for the purposes of a child care centre. The proposal also includes an internal fit-out of Level 1 to accommodate the centre and alterations to the facade of the building.

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The centre will accommodate a maximum of 112 children consisting of the following age groups:

- 16 children between 0 - 1 years;
- 16 children between 1 - 2 years;
- 20 children between 2 - 3 years; and
- 60 children between 3 - 5 years

## **Staff**

The centre will operate with 17 staff members for the centre.

## **Hours of Operation**

The hours of operation are proposed to be from 6.30 am to 6.30 pm Monday to Friday and 7.00 am to 7.00 pm on Saturday.

## **Signage**

The Statement of Environmental Effects (SEE) submitted with the Application indicates that two (2) individual signs are proposed, however, no plans or signage details have been provided with the application. Accordingly, the signage component of the application cannot be assessed within this report.

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:

<b>Section 79C 'Matters for Consideration'</b>	<b>Comments</b>
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See the discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	No draft environmental planning instruments apply to the subject site or proposed development
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiiia) – 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)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;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 that was provided by the applicant has been considered in the assessment of this application.</p>

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Section 79C 'Matters for Consideration'	Comments
	<p><u>Clause 92</u> of the EP&amp;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.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 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	<p>(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.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the community benefits from the proposed use.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>The applicant has not demonstrated that acoustic impacts can be adequately managed and mitigated.</p> <p>The site is not affected by any other constraints such as landslip or flooding and therefore subject to the acoustic issue being adequately managed and compliance with all relevant planning controls, the subject site is suitable for the proposed development.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See the discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	The Statement of Environmental Effects provides statistical information to demonstrate that there is a strong demand for child care in the local area. The provision of a child care centre which caters for 112 children would, therefore, be in the broader public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

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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 20 submission/s from:

Name:	Address:
Mrs Jenny Mays	11 Greendale Avenue FRENCHS FOREST NSW 2086
Mrs Camilla Wood	29 Government Road BEACON HILL NSW 2100
Mrs Karita Louise Beard	38 Allenby Park Parade ALLAMBIE HEIGHTS NSW 2100
Ji Chen	22 A Government Road BEACON HILL NSW 2100
Heather Mclennan	40 Prahran Avenue FRENCHS FOREST NSW 2086
Mr Leonard James Sutton Mrs Pamela Margaret Sutton	62 Arnhem Road ALLAMBIE HEIGHTS NSW 2100
Mrs Sarah Lois Jones	55 Bix Road DEE WHY NSW 2099
Sandra Marie Bertoliatti	19 Dixon Avenue FRENCHS FOREST NSW 2086
Mr Edward Malcolm Brown Mrs Carole Ann Brown	56 Arnhem Road ALLAMBIE HEIGHTS NSW 2100
Mrs Julia Skye Olivares	10 / 8 Fielding Street COLLAROY NSW 2097
Mr Wayne Stephen McCusker	18 Ballina Avenue KILLARNEY HEIGHTS NSW 2087
Rodborough Road Childrens Centre	1 - 3 Rodborough Road ALLAMBIE HEIGHTS NSW 2100
Mrs Sally Margaret Scott Liebke	46 Kangaroo Road COLLAROY PLATEAU NSW 2097
Mrs Bianca Jones	2/18 White Street BALGOWLAH NSW 2093
Australia Post	C/- Nigel Merryweather Architect 5 Elgata Close AVALON NSW 2107
Mrs Chantelle Eschler	4 Spurwood Place DURAL NSW 2158
Kay Doyle	
Taryn Claire Joseph	48 Binalong Avenue ALLAMBIE HEIGHTS NSW 2100
Mrs Jessica Kate Baxter	57 Forest Way FRENCHS FOREST NSW 2086
Church & Dwight Australia	Po Box 6369 FRENCHS FOREST NSW 2086

The following matters have been raised in the submissions and have been addressed below:

1. Contrary to the character of the area (noise and traffic impact)
2. Impact on other childcare centres (competition)
3. Inadequate provision of car parking
4. The allocation of the common area at the front of the property
5. The allocation of waste disposal bins

## 1. Contrary to the character of the area (noise and traffic impact)

Concerns are raised that the development will be contrary to the character of the area in respect to noise impact and traffic impact.

### Comment:



## **Noise**

This issue is addressed in detail under Clause D3 - Noise under the WDCP section of this report. In summary, an acoustic report has been provided by the applicant (*DA Noise Assessment* dated 25 July 2016, prepared by Renzo Tonin & Associates), which concludes that subject to appropriate signs, the noise levels experienced within the outdoor play areas will be within acceptable limits. This report has been reviewed by Council's Environmental Investigation's Section, who have advised that the findings and recommendations of the report are not agreed with and are not enforceable. For further discussion please refer to the comments provided under 'Referrals Section' of this report.

Accordingly, this issue is concurred with and included as a reason for refusal.

## **Traffic**

The application is accompanied by a traffic report (refer to Traffic and Parking Impact Report, dated 27 February 2016, as prepared by Traffic Solutions).

The Report notes that the development will generate the following vehicle trips:

<b>Children Number and Centre Type</b>	<b>AM Peak Hour</b>	<b>PM Peak Hour</b>
112 place long day care centre	112 x0.8 =89.6	112x0.7 =78.4
<b>Total</b>	<b>90 Trips</b>	<b>79 Trips</b>

The estimated net increase in traffic generation is in the order of 90 and 79 trips in the morning and evening peak hours respectively. The RMS defines a vehicle trip as a one-way vehicular movement from one point to another excluding the return journey. Accordingly, the estimated trips will be in the order of 45 in and 45 out in the morning peak hour and 39 in and 40 out in the evening peak hour.

The Report concludes that the development will not add any significant traffic volumes to the surrounding road environment.

It is noted that the submissions raise particular concern that the development will generate additional traffic on the intersection of Rodborough Road and Allambie Road, resulting in congestion and compromising safety. There is no evidence to support the claim and the volumes of traffic detailed in the table above do not suggest that the level of traffic generated by the development will be such that unreasonable congestion will be created.

Further to the above, Council's Traffic Engineer has reviewed the proposal and advised that the impact of the development is considered appropriate in the circumstances. For further discussion, please refer to the comments provided in the 'Referrals Section' of this report.

This issue does not have determining weight such that it warrants the refusal of the application.

## **2. Impact on other childcare centres (competition)**

Concern has been raised that the proposed childcare centre will have an adverse impact on another childcare centres and that Council should consider the economic viability of other centres within close proximity of the subject site.

## **Comment:**

Economic viability or the possibility that the proposed development would cause financial detriment to another

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childcare centre in the area is not a valid consideration under the Environmental Planning and Assessment Act, 1979, as tested in the Land and Environment Court (refer to *Fabcot Pty Ltd v Hawkesbury City Council*). Notwithstanding, WLEP 2011 and WDCP does not restrict the number of childcare centres in any given locality.

Furthermore, the proposed use is permissible with Council consent, subject to satisfying with the applicable planning controls.

This issue does not have determining weight such that it warrants the refusal of the application.

### **3. Inadequate provision of car parking**

Concern has been raised that there are insufficient parking spaces available to cater for the proposed use, considering that Level 2 of the building is currently occupied by an office use.

#### **Comment**

This issue is addressed under Clause C3 - Parking Facilities in the WDCP section of this report. In summary, there are sufficient parking available on site to accommodate the proposed development on Level 1, and the current office use on Level 2.

This issue does not have determining weight such that it warrants the refusal of the application.

### **4. Exclusive use of the common area at the front of the property**

Concerns have been raised that the common area, which is proposed to be converted to an outdoor play area will be for the sole use of Level 1 and therefore the office use within Level 2 will have no communal area for outdoor enjoyment during lunch hour.

#### **Comment:**

The current Planning controls within WLEP 2011 and WDCP 2011 does not stipulate any requirement for an outdoor communal area for an office use. The allocation of the outdoor space is at the discretion of the owner.

This issue does not have determining weight such that it warrants the refusal of the application.

### **5. Allocation of waste disposal bins**

Concerns have been raised that the bin location, as shown on the plans belong to Level 2.

#### **Comment:**

As the building is not strata subdivided, this issue is a matter for the owner to resolve between the two (2) tenants and is not a matter for consideration under the Environmental Planning and Assessment 1979.

This issue does not have determining weight such that it warrants the refusal of the application.

## **MEDIATION**

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

## **REFERRALS**



Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The building primarily comprises an existing Ground Floor Car park (BCA Class 7a); a proposed First Floor Early Childhood Centre (Class 9b); and a Second Floor Retail Office Area (BCA Class 5/6).</p> <p>Travel distances from external playroom 1 within the proposed Early Childhood Centre exceed 40m to a single exit when two (2) exits are provided. Additionally, travel distances between alternative exits leading from the same external playground area exceed 60m, and therefore are non-compliant.</p> <p>Compliance may be achievable via a fire engineering alternative solution pathway under the BCA, and undertaken prior to the issue of the Construction Certificate.</p> <p>Notwithstanding the above design issues, the proposal is generally consistent with the BCA and no objections are raised to the proposal subject to conditions.</p>
Development Engineers	<p>The proposed development is for the internal fit out of an existing building and will not result in an increase in impervious area. OSD is not required. There is no amendment proposed to the existing vehicular access to the site.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Environmental Investigations (Industrial)	<p>Environmental Investigations recommends refusal of the application, due insufficient information being provided in the acoustic report prepared by Renzo Tonin and Associates titled DA Noise Assessment for Proposed Childcare Centre dated 25 July 2016, Specifically, the following is noted:</p> <ul style="list-style-type: none"> <li>• Further information is required with regards to noise being generated while the children are indoors and how compliance with the industrial Noise Policy, Protection of the Environment Operations Act 1997 and any other appropriate legislation/policy is going to be met for the sensitive receivers (office works on Level 2) potentially impacted by noise.</li> <li>• Recommendation and Management Measures provided in the report for the outdoor area do not appear sufficient i.e "erecting signage" and "crying children should be taken indoors". Environmental Investigations is not satisfied with these measures as there is no guarantee that these measures can be maintained. Environmental Investigations recommends that appropriate measures be implemented (i.e acoustic barriers) to ensure compliance with the Industrial Noise Policy, Protection of the Environment Operations Act 1997 and any other appropriate legislation/policy.</li> </ul>

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Internal Referral Body	Comments
Natural Environment (Biodiversity)	No objection or conditions to the proposed development.
Traffic Engineer	<p>The proposal is for a change of use of the ground floor (level 1) of the commercial premises at 22 Rodborough Road to an 112 place long day care centre.</p> <p>The Traffic and Parking report provided by the applicant indicates that 28 on-site parking spaces will be provided to the child care centre. The proposed parking provision complies with the DCP parking requirements for child care centres (1 parking space for 4 children).</p> <p>The width of the driveway and shared access way off Rodborough Road is considered satisfactory.</p> <p>The proposed child care centre is expected to generate 90 and 79 trips in a two-hour interval in morning and evening peak hours respectively. The intersection analysis provided in the applicant's traffic report does not appear to reflect the current level of queuing at the intersection of Rodborough Road and Allambie Road during the peak hour periods.</p> <p>However, site investigations of the traffic operations during the peak periods for the development suggest that traffic emanating from the development would be absorbed into the traffic stream with no significant impacts to the network. In addition, the proposed upgrade to Warringah Road as well as the intersection of Warringah Road and Allambie Road is expected to result in an improvement of the traffic operation at the intersection of Rodborough Road and Allambie Road.</p> <p>The traffic queuing at the intersection is mainly related to the operation and capacity of Warringah Road, which is to be upgraded. Also, the proposed opening of Aquatic Drive on to Wakehurst Parkway should reduce some traffic currently using the intersection of Allambie Road and Rodborough Road to access the area.</p> <p>In view of the foregoing, no objection is raised to the proposal on traffic grounds.</p>

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	<p>The application was referred to the NSWRFs as Integrated Development on 4 May 2016.</p> <p>Section 100B of the Rural Fires Act 1997 enables the Commissioner of the NSWRFs to issue a Bush Fire Safety Authority for 'Special Fire Protection Purpose' development. Section 100B(6) of that Act identifies Childcare Centres as such development.</p>

External Referral Body	Comments
	In their response on 14 June 2016, the NSW RFS issued their Bushfire Safety Authority and General Terms of Approval (GTAs) which are to be included in any consent, should the Panel be of the mind to approve this application.

## 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 the land is contaminated. Council records indicate that the subject site has been used for commercial purposes 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 for the following reasons:

- Council's records indicate that site has no previous uses.
- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.
- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors, no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed child care centre use.

### 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 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.

## 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:	4000m <sup>2</sup>	No changes are proposed (Existing: 6116m <sup>2</sup> )	N/A	N/A

### Compliance Assessment

Clause	Compliance with Requirements
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

## Warringah Development Control Plan

### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B4 Site Coverage	33.3%	No changes are proposed (Existing: 18.69%)	N/A	N/A
B5 Side Boundary Setbacks	Nil	No changes are proposed	N/A	N/A
B7 Front Boundary Setbacks	10.0m	No changes are proposed (Existing: 28.7m)	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	33.3%	No changes are proposed (Existing: 22%)	N/A	N/A

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## Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B4 Site Coverage	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Other land in B7 zone	Yes	Yes
Side Setback Exceptions - B7	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Front Boundary Exceptions - All Zones	Yes	Yes
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
C6 Building over or adjacent to Constructed Council Drainage Easements	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	No	No
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
D23 Signs	N/A	N/A
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes

## Detailed Assessment

### **C3 Parking Facilities**

Appendix 1 of WDCP 2011 requires 4 spaces to be provided for every 4 children having regard to the maximum number of children authorised to be cared for at any particular time.

The Statement of Environmental Effects and Traffic and Parking Report states that the centre is to cater for 112 children. As such 28 car parking spaces are required for the proposed childcare centre.

The subject site currently accommodates a total of 64 parking spaces of which 33 spaces are allocated to the office use within Level 2 and 28 spaces to be allocated to the proposed childcare centre.

Accordingly, the development is compliant with the requirements of the WDCP.

### **D3 Noise**

#### **Merit consideration**

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.*

#### **Comment:**

Submissions have been received in relation to the noise impact generated as a result of the proposed childcare centre, in particular the impact on the office use which is located in the same building on Level 2.

An Acoustic Assessment has been prepared by Renzo Tonin & Associates. The assessment considers the interrelationships between the proposed use on site and the surrounding residential/commercial development including the office use on Level 2 of the same building. Typically, the primary source of noise emission associated with a childcare centre will be from children playing in outdoor playgrounds. Potential noise impacts on the existing residences and commercial development have been assessed based on the following assumptions:

- *There are approximately 112 children using the play area at any one time (worse case scenario).*
- *During active outdoor play, the typical sound power of a child is 67dB(A), which is 2dB(A) above the noise predicted criteria for Level 2 as stipulated within the Guideline for child care centres, published by Association of Australian Acoustical Consultants, dated September 2010.*

The current occupants of the office on Level 2 (Church & Dwight Australia) commissioned an independent acoustic report prepared by *Acoustic Dynamics*, an e-opinion was also provided from a consultant called *Noise Sound Services*. Both of the acoustic consultants engaged by the objectors have assessed the likely impact of the proposed use on Level 2 offices, and both consultants have confirmed that the impact of the proposed use on the Level 2 will be significant.



All the acoustic reports submitted to Council (Applicant's and objectors) have been reviewed by Council's Environmental Investigation section who has advised that the acoustic report submitted by the applicant did not provide sufficient details to properly assess the impact of the development on the office use upstairs (Level 2). Furthermore, the recommendations provided within the applicant's acoustic report are not found to be reasonable or enforceable, as sole reliance upon obeying signage and removing crying children from the external play areas are insufficient to ensure the noise levels will be maintained at satisfactory levels and the ability to enforce the proposed measures would be problematic. In this regard, the proposal fails to propose sufficient noise mitigation measures for the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of WLEP 2011 / 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 not supported, in this particular circumstance. This issue has been included as a reason for refusal.

## **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.

## **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, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent 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
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## **RECOMMENDATION**


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THAT Council , as the consent authority REFUSE Development Consent to Development Application No DA2016/0275 for the Alterations and additions to a building and use of part of the premises as a child care centre on land at Lot 35 DP 842139,22 Rodborough Road, FRENCHS FOREST, subject to the reasons outlined as follows:


1. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Part 3 - Noise of the Warringah Development Control Plan 2011 in that the development will result in unreasonable noise impacts on other uses within the building.

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## ATTACHMENT A

Notification Plan	Title	Date
 2016/102371	Plans - Notification	01/04/2016

## ATTACHMENT B

Notification Document	Title	Date
 2016/145076	Notification Map	10/05/2016
 2016/145077	Notification Map	10/05/2016
 2016/261644	Notification Map	08/08/2016


















## ATTACHMENT C

Reference Number	Document	Date
 2016/102413	Report - Traffic and Parking	22/03/2016
 2016/102396	Report - BCA 2015 Indicative Compliance	22/03/2016
 2016/102411	Report - Noise	22/03/2016
 2016/102417	Report - Waste Management Plan	22/03/2016
 2016/102380	Report Statement of Environmental Effects	22/03/2016
 2016/102389	Plan - Internal	22/03/2016
 2016/102378	Builders Quotation	22/03/2016
 DA2016/0275	22 Rodborough Road FRENCHS FOREST NSW 2086 - Development Application - Change of Use	24/03/2016
 2016/093797	DA Acknowledgement Letter - Carl Elassal	24/03/2016
 2016/102383	Plans - External	01/04/2016
 2016/102418	Plans - Master Set	01/04/2016
 2016/102362	Development Application Form	01/04/2016
 2016/102363	Applicant Details	01/04/2016
 2016/102371	Plans - Notification	01/04/2016
 2016/102547	Sent DA Reject Letter - Carl Elassal	01/04/2016
 2016/142673	Environmental Investigations (Industrial) - Assessment Referral - DA2016/0275 - 22 Rodborough Road FRENCHS FOREST NSW 2086	02/05/2016
 2016/137350	Building Assessment Referral Response	03/05/2016
 2016/137351	Building Assessment Referral Response	03/05/2016
 2016/137555	Referral to AUSGRID - SEPP - Infrastructure 2007	03/05/2016
 2016/139540	Integrated referral to RFS head office Chq attached	04/05/2016
 2016/141499	duplicate - Development Application Advertising Document - Carl Elassal	05/05/2016
 2016/141518	Development Application Advertising Document - Carl Elassal	05/05/2016
 2016/144806	Advertised Development Payment required	10/05/2016
 2016/145039	Notification Letter Integrated Dev RFS - 109	10/05/2016
 2016/145076	Notification Map	10/05/2016
 2016/145077	Notification Map	10/05/2016
 2016/147687	RFS response - 22 Rodborough Road Frenchs Forest	12/05/2016
 2016/149716	22 Rodborough Road Site Signs	13/05/2016
 2016/154432	Development Engineering Referral Response	16/05/2016
 2016/159816	Online Submission - Mays	20/05/2016
 2016/160653	Online Submission - Smith	23/05/2016
 2016/160739	Online Submission - Beard	23/05/2016

# NORTHERN BEACHES COUNCIL

	2016/160759	Online Submission - Chen	23/05/2016
	2016/160784	Online Submission - McLennan - DUPLICATE	23/05/2016
	2016/160788	Online Submission - McLennan	23/05/2016
	2016/161089	Online Submission - Sutton	23/05/2016
	2016/161124	Online Submission - Jones	23/05/2016
	2016/161180	Online Submission - Bertoliatti	23/05/2016
	2016/161461	Online Submission - Olivares	23/05/2016
	2016/161287	Submission - Brown	23/05/2016
	2016/161467	Online Submission - McCusker	23/05/2016
	2016/161839	Online Submission - Rodborough Road Childrens Centre	23/05/2016
	2016/161965	Online Submission - Liebke	23/05/2016
	2016/162174	Online Submission - Jones	24/05/2016
	2016/163084	Online Submission - Eschler	24/05/2016
	2016/163081	Online Submission - Allan	24/05/2016
	2016/163635	Submission - Doyle	24/05/2016
	2016/163669	Online Submission - Joseph	24/05/2016
	2016/163794	Submission - McCusker	25/05/2016
	2016/165658	Receipt - DA2016/0275 - 22 Rodborough Road FRENCHS FOREST	26/05/2016
	2016/166279	Against approval of DA - 22 Rodborough Road FRENCHS FOREST	27/05/2016
	2016/168036	Submission Acknowledgement Letter - Wayne Stephen McCusker - SA2016/163794	30/05/2016
	2016/168223	Submission Acknowledgement Letter - Carole Ann Brown & Edward Malcolm Brown - SA2016/161287	30/05/2016
	2016/172022	RE: Form submission from: Enquiry Form	30/05/2016
	2016/171114	Submission - Baxter	31/05/2016
	2016/171454	Traffic Engineer Referral Response	01/06/2016
	2016/179575	Submission summary form	08/06/2016
	2016/183611	referral nsw rural fire Development Application DA2016/0275 22 Rodborough Road FRENCHS FOREST	14/06/2016
	2016/231856	Issues Letter - Carl Elassal	13/07/2016
	2016/233984	Submission - Church and Dwight	14/07/2016
	2016/234957	Submission Acknowledgement Letter - Church & Dwight Australia - SA2016/233984	15/07/2016
	2016/240056	7 day letter email to applicant	18/07/2016
	2016/249736	Report - Statement of Environmental Effects	26/07/2016
	2016/249743	Report - Noise Assessment	26/07/2016
	2016/249747	Report - Supplementary Traffic and Parking	26/07/2016

# NORTHERN BEACHES COUNCIL

	2016/249820	Letter - Childcare Use	26/07/2016
	2016/249822	Plans - Architectural	26/07/2016
	2016/249821	ASIC Company Extract	26/07/2016
	2016/257982	Advertising Payment	03/08/2016
	2016/259067	Development Application Re-Advertising Document	04/08/2016
	2016/260460	Re-Notification Letter Integrated Dev RFS - 109	05/08/2016
	2016/260501	Re-Notification Letter to Submitters - 22	05/08/2016
	2016/261644	Notification Map	08/08/2016
	2016/267681	Working Plans	11/08/2016
	2016/275488	Online Submission - Mays	19/08/2016
	2016/280110	Environmental Investigations (Industrial) - Assessment Referral - DA2016/0275 - 22 Rodborough Road FRENCHS FOREST NSW 2086	23/08/2016
	2016/279160	Regarding letter dated 5 August 2016 - revised development application - DA2016/0275 - 22 Rodborough Road FRENCHS FOREST	24/08/2016
	2016/280199	Request implementation of traffic management plan - DA2016/0275 - 22 Rodborough Road FRENCHS FOREST	24/08/2016
	2016/302285	Submission - Acoustic Report	08/09/2016
	2016/302379	Traffic Engineer Referral Response 2	08/09/2016
	2016/305823	Environmental Investigations Referral Response - industrial use	12/09/2016
	2016/311829	DAO Checklist Development Panel Reports - Building Blocks	19/09/2016

## PANEL PLANS

No plans titled 'ADP Panel Plans' found in TRIM.