

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2015/0036
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<b>Responsible Officer:</b>	Tony Collier
<b>Land to be developed (Address):</b>	Lot 100 DP 1015283 , 145 Old Pittwater Road BROOKVALE NSW 2100
<b>Proposed Development:</b>	Modification of Development Consent DA2013/1515 granted for Alterations and Additions to retail premises (Warringah Mall )
<b>Zoning:</b>	LEP - Land zoned B3 Commercial Core LEP - Land zoned IN1 General Industrial
<b>Development Permissible:</b>	Yes - Zone B3 Commercial Core Yes - Zone IN1 General Industrial
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Warringah Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	AMP Warringah Mall Pty Ltd Westfield Management Ltd
<b>Applicant:</b>	Westfield Design & Construction Pty Ltd AMP Warringah Mall Pty Ltd Westfield Management Ltd

<b>Application lodged:</b>	03/03/2015
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Other
<b>Notified:</b>	Not Notified
<b>Advertised:</b>	Not Advertised in accordance with A.7 of WDCP
<b>Submissions:</b>	0
<b>Recommendation:</b>	Approval

### 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

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 100 DP 1015283 , 145 Old Pittwater Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	The location of the bridge is within the northern mall at the upper level (adjacent to David Jones) of the Warringah Mall.

Map:



## SITE HISTORY

The site has a history of use as Warringah Mall.

## **PROPOSED DEVELOPMENT IN DETAIL**

The applicant seeks consent to modify Consent No. DA2013/1515 which was for the construction a new bridge across the upper level (Level 1) of the northern shopping mall.

The approved bridge connects the western and eastern walkways of the upper level to better facilitate accessibility and pedestrian flow and accommodates a new kiosk cafe and associated seating. The cafe will occupy approximately 62.69m<sup>2</sup> of the bridge area.

The subject application proposes a minor alteration to the approved bridge in the following manner:

- Amend the section below the bridge to accommodate new steel beams; and
- New 1.0m high wrap-around boards to all undersides of the bridge.

The modification is considered to be of a minor nature and, because of it's internal location within the shopping centre, will not have any impact upon surrounding properties. In this regard, notification of the application has been dispensed with in accordance with the provisions of Clause A.7 of the Warringah Development Control Plan 2011.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

## **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are: 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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and 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 (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2013/1515, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(1A) - Other Modifications	Comments

<b>Section 96(1A) - Other Modifications</b>	<b>Comments</b>
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<b>Yes</b> The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2013/1515.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require, or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has not been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Public Exhibition" in this report.

## Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of 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 discussion on "Environmental Planning Instruments" in this report.

Section 79C 'Matters for Consideration'	Comments
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)	<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 in the original 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. No Additional information was requested.</p> <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 in the original 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 in the original 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 in the original 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 character of the proposal.</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	The site is considered un/suitable for the proposed development.



Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application was not notified.

## 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>There are no objections to this Modification subject to works being consistent with the 'Alternate Solution' devised for the Warringah Mall Shopping Centre.</p> <p>The condition imposed in the original consent addresses the comments provided by Council's Building Assessment Officer.</p>

## 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 retail/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 and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the retail/commercial land use.

## Warringah Local Environment Plan 2011

Is the development permissible?	Zone B3 : Yes Zone IN1: 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

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Minimum subdivision lot size:	N/A	N/A	N/A	N/A	N/A
Height of Buildings:	N/A	N/A	N/A	N/A	N/A
Rural Subdivision:	N/A	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	N/A

## Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 4 Principal development standards	N/A
Part 5 Miscellaneous provisions	Yes
5.8 Conversion of fire alarms	Yes
6.1 Acid sulfate soils	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

## Warringah Development Control Plan

### Built Form Controls

No built form controls are applicable to the development.

#### Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part B Built Form Controls	N/A	N/A
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
Part D Design	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D18 Accessibility	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
Part G Special Area Controls	Yes	Yes
G4 Warringah Mall	Yes	Yes

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

#### **POLICY CONTROLS**

##### **Warringah Section 94A Development Contribution Plan**

Section 94 contributions were levied on the Development Application.

#### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by



the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## **RECOMMENDATION**

THAT Council as the consent authority grant approval Modification Application No. Mod2015/0036 for Modification of Development Consent DA2013/1515 granted for Alterations and Additions to retail premises (Warringah Mall ) on land at Lot 100 DP 1015283, 145 Old Pittwater Road, BROOKVALE, subject to the conditions printed below:

### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

- a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>
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<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
12.0001(1) Bridge Extension Plans, Elevations, Sections & Details	11/02/2015	Scentre Design and Construction Pty Ltd
12.0002(1) Bridge Extension Plans, Elevations, Sections & Details	11/02/2015	Scentre Design and Construction Pty Ltd

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

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

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

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

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

**Signed**

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**Tony Collier, Senior Development Planner**

The application is determined under the delegated authority of:

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**Phil Lane, Development Assessment Manager**











**ATTACHMENT A**

No notification plan recorded.

**ATTACHMENT B**

No notification map.

## ATTACHMENT C

Reference Number	Document	Date
 MOD2015/0036	Warringah Mall 145 Old Pittwater Road BROOKVALE NSW 2100 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	03/03/2015
 2015/060388	DA Acknowledgement Letter - Westfield Design & Construction Pty Ltd - Westfield Management Ltd - AMP Warringah Mall Pty Ltd	03/03/2015
 2015/061432	Modification Application Form	04/03/2015
 2015/061438	Applicant Details	04/03/2015
 2015/061448	Plans Large - Architectural	04/03/2015
 2015/064712	Building Assessment Referral Response	06/03/2015
 2015/065090	File Cover	09/03/2015
 2015/087705	Obsolete - Assessment Report	26/03/2015
 2015/087723	Obsolete - Notice of Determination	26/03/2015
 2015/087739	Notice of Determination	26/03/2015