

REPORT TO APPLICATION DETERMINATION PANEL
Meeting held on 31 March 2016

145 Old Pittwater Road Brookvale, 2741 / 9999 Condamine Street Manly Vale, 75 Old Pittwater Road Brookvale, 2742 / 9999 Condamine Street Manly Vale, 30 / 0 Old Pittwater Road Brookvale - Modification of Development Consent DA2008/1742 granted for Construction of stormwater upgrade works for Warringah Mall and watercourse bank stabilisation works

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0247
Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 100 DP 1015283, 145 Old Pittwater Road BROOKVALE NSW 2100 Lot 2741 DP 752038, 2741 / 9999 Condamine Street MANLY VALE NSW 2093 Lot 2 DP 600059, 75 Old Pittwater Road BROOKVALE NSW 2100 Lot 2742 DP 752038, 2742 / 9999 Condamine Street MANLY VALE NSW 2093 Lot 30 DP 204107, 30 / 0 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Modification of Development Consent DA2008/1742 granted for Construction of stormwater upgrade works for Warringah Mall and watercourse bank stabilisation works
Zoning:	LEP - Land zoned B3 Commercial Core LEP - Land zoned IN1 General Industrial LEP - Land zoned IN1 General Industrial LEP - Land zoned RE1 Public Recreation LEP - Land zoned RE1 Public Recreation LEP - Land zoned RE1 Public Recreation
Development Permissible:	Yes - Zone B3 Commercial Core Yes - Zone IN1 General Industrial Yes - Zone RE1 Public Recreation
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	AMP Warringah Mall Pty Ltd Scentre Management Ltd
Applicant:	Scentre Group Ltd

Application lodged:	02/11/2015
Application Type:	Local
State Reporting Category:	Other
Notified:	20/11/2015 to 08/12/2015
Advertised:	21/11/2015
Submissions:	1
Recommendation:	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

Warringah Development Control Plan - G4 Warringah Mall

SITE DESCRIPTION

Property Description:	Lot 100 DP 1015283 , 145 Old Pittwater Road BROOKVALE NSW 2100 Lot 2741 DP 752038 , 2741 / 9999 Condamine Street MANLY VALE NSW 2093 Lot 2 DP 600059 , 75 Old Pittwater Road BROOKVALE NSW 2100 Lot 2742 DP 752038 , 2742 / 9999 Condamine Street MANLY VALE NSW 2093 Lot 30 DP 204107 , 30 / 0 Old Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The site is legally described as Lot 100, DP 1015283, 145 Old Pittwater Road, Brookvale. More commonly the site is known as the Warringah Mall shopping centre which has been existing on the site since 1963.</p> <p>The site has a total area of approximately 170,600sqm. It is bounded to the north by Cross Street, to the south by Old Pittwater Road and to the east by Condamine Street / Pittwater Road. The Condamine Street / Pittwater Road</p>

frontage is the primary frontage to the site and the Cross Street and Old Pittwater Road frontages are secondary frontages to the site.

The site is currently undergoing major redevelopment to expand and revitalise the shopping centre. The current shopping centre is split over three levels with an emphasis on an open-air design to reflect the locality of the Northern Beaches.

Warringah Mall accommodates several major department stores, specialty shops, supermarkets and mini-major tenants throughout. Warringah Mall includes an entertainment precinct including a cinema complex, gym and other non-retail facilities.

Topographically, the site has a natural slope which gradually inclines from the south east to the north west.

The Warringah Mall site contains limited vegetation, the primary vegetation of the site is located along Condamine Street and Pittwater Road. Having vegetation in this location bordering the site and Condamine Street / Pittwater Road is a rarity in the industrial Brookvale area and is a feature of the site and local vicinity.

The Warringah Mall shopping centre is a significant venue of the Northern Beaches and a primary retail space within the region, recognised by it's open-air design and iconic Dolphin Statues.

Map:



SITE HISTORY

The Warringah Mall shopping centre is currently undergoing a period of extensive renovation and expansion. Multiple development applications and modifications have been lodged with Council addressing individual elements of the site and its development.

This specific modification is subsequent of DA2008/1742 granted for:

Construction of stormwater upgrade works for Warringah Mall and watercourse bank stabilisation works.

A subsequent modification (MOD2014/0285) was lodged, proposing an alternative design to modify the culvert design underneath Condamine Street where it connects to the existing drainage infrastructure. This modification was approved by Council in May 2015.

This current application is subsequent of MOD2014/0285.

PROPOSED DEVELOPMENT IN DETAIL

Background

This modification is subsequent of DA2008/1742, approved by Council in May 2012 for the construction of stormwater upgrades for Warringah Mall and watercourse bank stabilisation works.

Further subsequent of this development application is MOD2014/0285 approved by Council in May 2015 which proposed an alternative design to modify the culvert design underneath Condamine Street where it connects to existing drainage structure.

These approved stormwater augmentations works (MOD2014/0285) necessitate the diversion of existing sewer infrastructure on site, as required by Sydney Water.

Proposed Development

This application is for the removal of forty one (41) trees along Pittwater Road/Condamine Street to the south east of the Warringah Mall site to enable the installation of a directed sewer as required by Sydney Water.

Consequent of the removal of these forty one (41) trees, the applicant will sufficiently replant the subject area with vegetation to mitigate the removal of the trees. This updated landscaping will assist in updating and formalising the street frontage of the site to Pittwater Road/Condamine Street.

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 DA2008/1742 and MOD2014/0285, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(2) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(2) - Other Modifications	Comments
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 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 DA2008/1742 and MOD2014/0285.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2008/1742 and MOD2014/0285 did not require concurrence from the relevant Minister, public authority or approval body.
(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 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:

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)	<p><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 in the original consent.</p> <p><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.</p> <p><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 in the original consent.</p> <p><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 clause is not relevant to this application.</p> <p><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 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	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Ann Elizabeth Sharp	77 Brighton Street CURL CURL NSW 2096

The following issues were raised in the submissions and each have been addressed below:

- Cost & Funding Source
- Removal of trees
- Enlargement of culverts
- Incorporation of water sensitive urban design

The matters raised within the submissions are addressed as follows:

- Cost & Funding Source
Comment:
"Information about the cost of relocating the sewer infrastructure and the funding source is not provided"
 This information has not been provided as it is not relevant to this application. This application is for the removal of forty one (41) trees only.

"The combined cost of these works is considerable and would be far better spent on preventative measures to protect the downstream environment. "
 This is not in the scope of the assessment and has not been applied for.
- Removal of Trees
Comment:
"The removal of 41 trees proposed to be retained will affect landscape amenity and it will take years for mature trees to become established."
 The arborist report submitted with the original DA highlights that the subject trees are not perfect specimens and the majority are only in fair condition with a medium useful life expectancy.

 To mitigate the removal of these subject trees, Council's Landscape Officer has conditioned that (e) *Replacement trees are to be of a minimum container size of 700 litre and grown to comply with NATSPEC publication Specifying Trees - A guide to assessment of tree quality.* Providing a variety of flora of different species and sizes will mitigate the removal of trees and provide visual interest to the existing site whilst enhancing the local vicinity.

 Council Landscape Officers have assessed the application and have recommended conditions to best protect the trees during excavation works and to mitigate the removal of any of these forty one trees. These conditions can be found in the Recommendations of this report.
- Enlargement of culverts
Comment:

"The need for enlarged culverts could be avoided if adequate stormwater retention measures were provided on-site and upstream."

This application is for the removal of forty one (41) trees only and is not applying to change any existing or approved culverts.

- Incorporation of water sensitive urban design

Comment:

"The proposed modification to divert the sewer line and remove 41 trees would be unnecessary if the development incorporated water sensitive urban design measures to ensure there was no significant increase in stormwater runoff downstream of the subject site."

The sewer diversion is required by Sydney Water. This application is for the removal of forty one (41) trees only. Council notes that the incorporation of water sensitive urban design can enhance the site, however this is not proposed as a part of this application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Development Engineers	Proposed modification to the Consent is not Development Engineering related. Development Engineers have no comments to offer.
Landscape Officer	<p><u>Final Assessment Comment (09/03/2016)</u></p> <p>Following a meeting with the applicant and consultants, additional information regarding the sewer main and Tree Management Plan has been provided.</p> <p>The applicant has made the amendments as agreed at the meeting, aiming to retain a grass verge behind the existing bus stop, referred to in earlier referral.</p> <p>It is recognized that the retention of the trees cannot be guaranteed and that excavation for the sewer may cause structural damage, despite the relocation of the alignment.</p> <p>In order to provide the best opportunity for retention, conditions have been drafted requiring the retention of trees and the appointment of a Project Arborist to oversee works.</p> <p>In the event that the works, despite the protection measures imposed, cause a tree or tree to be in imminent danger of failure, removal is permitted in the conditions subject to replacement of trees of a similar species to match any removed. Other than under this scenario, the trees are to be retained in accordance with the Tree Management Plan.</p> <p>No objections to approval subject to conditions as recommended.</p> <p><u>Original Assessment comments (30/12/2015)</u></p> <p>Previous comment on storm water augmentation scheme resulted in relocation of the works to the west of Pittwater Road being adjusted to enable retention of the mature planting immediately behind Pittwater Road. The current plans indicate removal of this vegetation to accommodate a new sewer main.</p>

Internal Referral Body	Comments
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The issue raised previously was the cultural significance of the trees, which include Norfolk (*Araucaria heterophylla*), Brush Box (*Lophostemon conferta*) and Fig (*Ficus rubiginosa*).

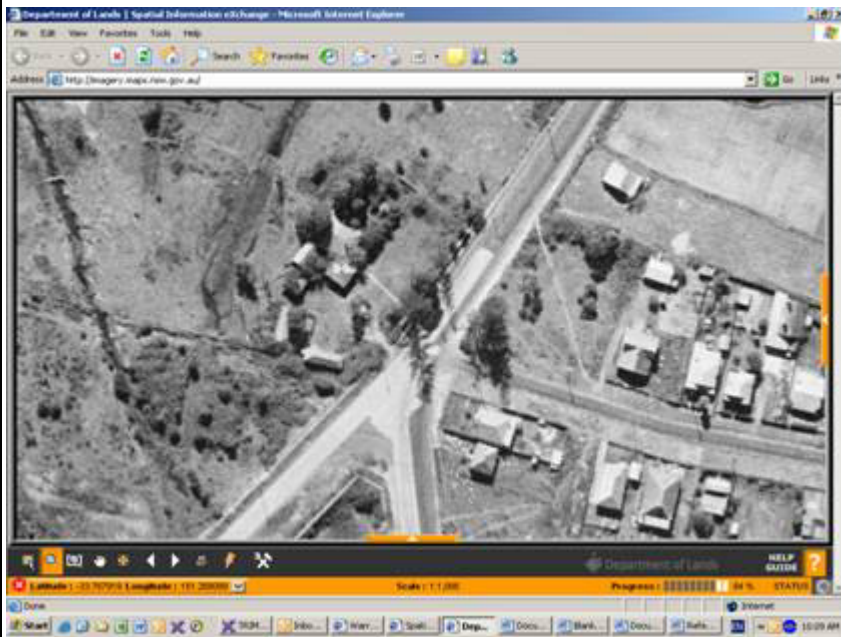
Review of air photos from 1943 indicate the presence of vegetation including Norfolk Island location. Images from 1910 obtained through Council's Library Service indicate Norfolk Island similar location forward of Brookvale House. The planting may therefore be remnants of the gardens.

It is recommended that referral be made to Council's Heritage Officer for comment.

As a long standing landscape element that appears to pre-date the Warringah Mall and has existed during its existence, the trees are considered significant enough to warrant retention.

In the event that no alternative can be engineered, replacement planting should reflect the trees at this location.

No objections are raised to other landscape elements indicated in the scheme, however, the trees behind the bus stop is considered a significant matter to be addressed by the applicant.



1943

Internal Referral Body	Comments
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1951

Internal Referral Body	Comments
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1956

Internal Referral Body	Comments
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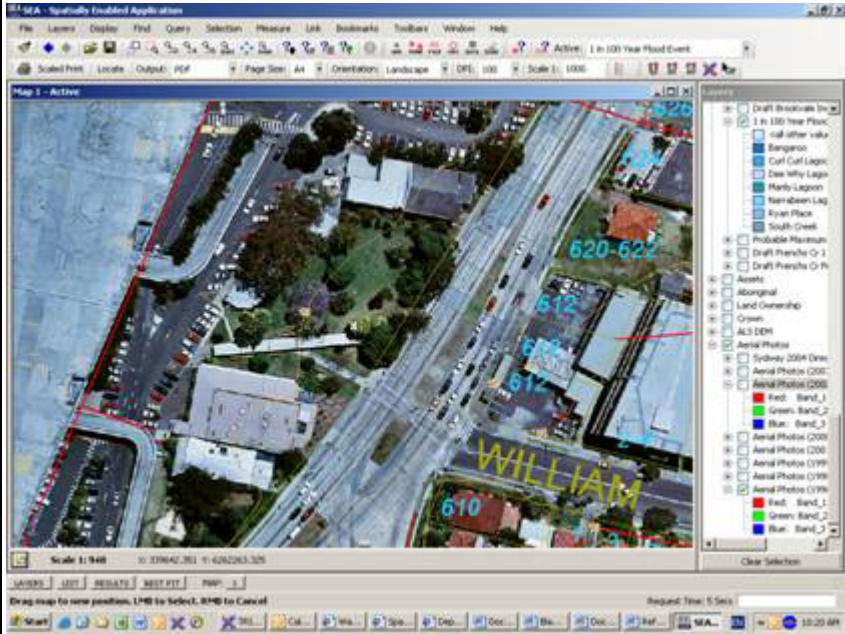


1961

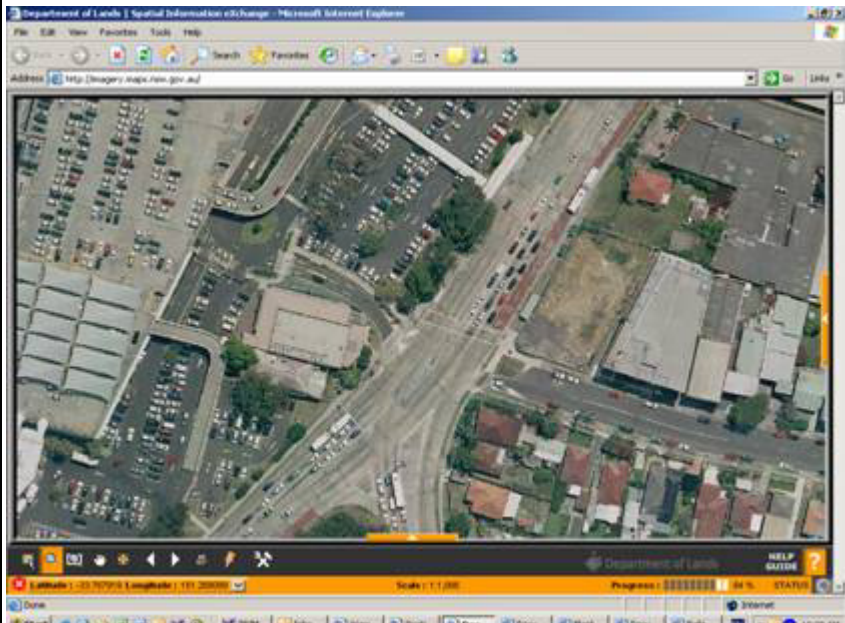
Internal Referral Body	Comments
	 <p>19</p>

Internal Referral Body	Comments
	

Internal Referral Body	Comments
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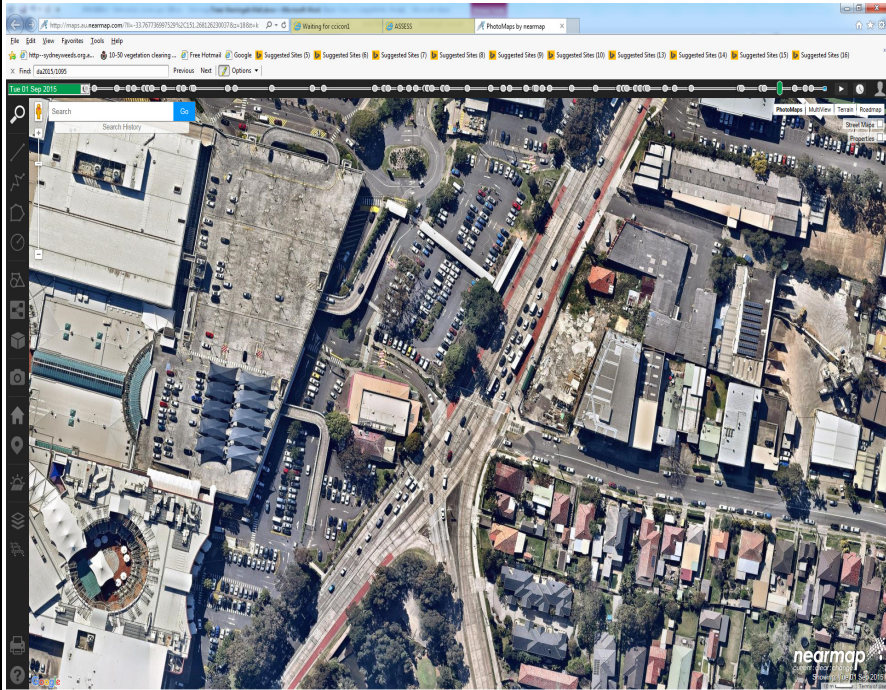


1996



2007

Internal Referral Body	Comments
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2015



1910

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.
NSW Roads and Maritime Services - (SEPP Infra. Traffic generating dev)	NSW Roads and Maritime Services raised no objection to the proposal and no conditions have been recommended.
NSW State Transit (Bus	The proposal was referred to NSW State Transit Authority. No

External Referral Body	Comments
stops)	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. A previous application at the subject site (DA2008/1741) included conditions regarding SEPP 55 based on the recommendations of a Phase 1 Contamination Assessment dated April 2009 and a Targeted Phase 2 Contamination Assessment dated January 2010, both prepared by Douglas Partners Pty Ltd. Council's Environmental Health Officer reviewed these assessments and raised no objection subject to a number of conditions.

An extract of the report addressing EPI SEPP 55 reads:

Based on the findings of the contamination reports prepared on behalf of the Applicant and the recommendation of Council's Environmental Health Officer, the consent authority can be satisfied that the land is suitable for the proposed use in its current state, subject to the appropriate management of the site during construction.

This application is a modification to the works approved under DA2008/1741 in which both the Phase 1 Contamination Assessment and the Targeted Phase 2 Contamination Assessment prepared by Douglas Partners Pty Ltd. confirmed that the site is compatible for use for the purposes of the DA. Given the recency and relevance of these reports to this modification application, Council can be satisfied that the subject land remains satisfactory from contamination and that the proposed development is substantially the same to the works approved under the original DA (DA2008/1741) and is therefore permissible.

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?	Zone B3 : Yes Zone IN1: Yes Zone RE1: 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	Complies
Minimum subdivision lot size:	N/A	N/A	N/A	N/A
Height of Buildings:	N/A	N/A	N/A	N/A
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
5.3 Development near zone boundaries	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

The applicable Built Form Controls for the site are contained within Part G Special Area Controls - G4 Warringah Mall of the DCP.

Refer to the G4 - Warringah Mall under the WDCP section of this report for an assessment of the proposed built form.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	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
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
Part G Special Area Controls	Yes	Yes
G4 Warringah Mall	Yes	Yes

Detailed Assessment

G4 Warringah Mall

This DCP applies to Lot 100, DP 1015283, 145 Old Pittwater Road, Brookvale which is commonly referred to as 'Warringah Mall Shopping Centre'

The objectives of this DCP are as follows:

- *To guide future development within the Warringah Mall Shopping Centre (Warringah Mall) site to 2021.*
- *To ensure development responds to the characteristics of the site and surrounds, and the amenity of the surrounding neighbourhood.*
- *To encourage and facilitate high quality urban design, landscaping, external finishes and signage.*

Comment:

This application is for the removal of forty one (41) trees on the eastern side of the site adjacent to Pittwater Road and Condamine Street.

The Warringah Mall site is currently undergoing a period of significant expansion, renovation and revitalisation. This application is ancillary to other applications relevant to the site and once viewed in conjunction, a cohesive understanding of how the development is responding to the desired future character can be attained.

The Warringah Mall site is a significant venue of the Northern Beaches and is frequently visited for retail and leisure by members of the area. This proposal will result in a formal landscaped strip to the east of the site and adjacent to

Pittwater Road and Condamine Street. By retaining the area as a landscaped space the site will represent the characteristics of the Northern Beaches and remain coherent with the landscaping existing directly to the east of the site (Lot2742/9999 Condamine Street, Manly Vale). This application is complementary to other current developments on the site and will help to reduce the visual scale of the Warringah Mall development as a whole when viewed from the public road and nearby bus stops.

Warringah Development Control Plan – G4 Warringah Mall

The proposed development’s consistency with the objectives and requirements of the applicable controls within the *Warringah Development Control Plan – G4 Warringah Mall* are considered in detail below.

Built Form	
Design Quality & Excellence	
Objectives	
<ul style="list-style-type: none"> • <i>To ensure that new development makes a positive contribution to the streetscape and public domain.</i> • <i>To ensure a high standard of architectural design.</i> • <i>To achieve high quality urban design internally and externally and high levels of pedestrian comfort in the public spaces of the centre.</i> • <i>To emphasise key nodes and entry points to create a sense of arrival.</i> • <i>To encourage the use of high quality, durable and robust materials.</i> • <i>To ensure the design response reflects the Northern Beaches vernacular/lifestyle.</i> 	
<u>Comment:</u>	
<p>This proposal will formalise the landscaping of the Warringah Mall site along the Pittwater Road / Condamine Street frontage and will be of benefit to the public domain. By revitalising the landscaped area the development will enhance the current and future developments of the site and complement other developments on site to achieve a high level of urban design for the Warringah Mall site in its entirety.</p> <p>The proposed landscaping in conjunction with other current developments of the site will significantly enhance the site and be sympathetic to the Northern Beaches vernacular and lifestyle. This proposal entails a significant frontage of a major site within the Northern Beaches area on primary roads and will improve the visual and scenic quality of the area portraying the desired future character of the Warringah area and acting as an appealing gateway entrance to the Northern Beaches. The development will assist in creating a key entry point and sense of arrival into the Northern Beaches as motorists drive down Condamine Street, turning into Pittwater Road and being met by a formalised tree-lined landscape.</p>	
Requirements	Complies
1. Future development on or adjacent to the perimeter of the site must be designed to positively address the street, relate to the natural environment and create a clear distinction between the public and the private domain.	Yes
2. Future development on the site is to incorporate design elements that optimize the use of natural light and the ambient environment to the pedestrian malls within the Centre.	N/A

3. New development along the southern edge of the site must not result in any unreasonable impacts on the amenity of residential properties in Old Pittwater Road and Smith Avenue.	Yes
4. New development along the eastern frontage to Pittwater Road/Condamine Street must incorporate a legible pedestrian connection from the street into the centre that is conveniently located in relation to existing bus stops.	Yes
5. All future development must be designed to strongly and positively reinforce the corners of the site and street alignment and frame the street. Incorporating landmark or distinctive building elements on "Gateway" street corners is encouraged.	Yes
6. Long continuous walls are to incorporate design treatments to reduce their visual mass and bulk. Such design treatments may include the use of architectural treatments or elements that serve to provide building articulation and modulation and the use of a variety of high quality external colours and materials.	N/A
7. Views of the ground level car parking areas must be suitably screened from the street by either landscaping or an appropriate architectural building facade treatment.	Yes
8. High quality, attractive and durable materials are to be used. The selection of colours is to respond to the natural landscape. A detailed schedule of external colours and finishes, a sample board and photo-montages are to be submitted with any application to alter or extend the external façade and roof of Warringah Mall.	N/A
9. The roof is to be designed so that the visual impact of the roof form is minimised.	N/A
10. Rooftop plant and equipment are to be integrated into the building/roof forms or screened in a manner compatible with the building design to minimise visual and acoustic impacts on the surrounding properties, including elevated properties which have views over the centre.	N/A

Amenity

Landscaping

Objectives

- *To allow for existing landscaping to be retained and enhanced.*
- *To create landscaping zones along the eastern boundary of the site adjoining Pittwater Road and Condamine Street to soften views to the site.*
- *To ensure landscaping is integrated into the design of development.*
- *To ensure landscaping is in scale with and provides for the softening and screening of the building form.*
- *To ensure landscaping provides a high quality aesthetic.*

Comment:

This application has been submitted as the sewer location requires the existing landscaping to the west of

Pittwater Road / Condamine Street to be excavated. The removal of 41 trees in this area is substantial and Council's Landscape Officer raised concern over the removal of trees that have proved longevous and provide a feature to the site; in particular, Tree 6, Tree 7, Tree 8, Tree 9, Tree 10 and Tree 11. Council's Landscape Officer has identified the significance of these trees and it is possible that these trees once formed the landscaping of the original Brookvale Cottage.

Subsequent of Council's concerns, the applicant has submitted amended plans entailing the sewer being diverted approximately 2.5m to the west of its original proposed location. The relocation of the sewer provides more opportunities for the existing landscaping and aforementioned trees to be retained. Given the age and location of the subject trees, the applicant's arborist and Council's Landscape Officer are unable to determine whether or not the required excavation for the sewer will result in damages requiring the necessary removal of trees. The Arborist Report and Tree Management Plan both supplied by Jacksons Nature Works provided recommendations which are included in the conditions of this report along with conditions of how to best preserve the trees during the time of excavation, and to mitigate any damage and potential removal of trees on site.

The development's landscape plan will replace the existing subject landscaping strip (subject to the removal of individual trees as discussed above) and integrate into the site in conjunction with other ancillary developments on the site. Similarly, the development will not have detrimental implications on the amenity or scenic quality of Warringah as the proposed landscaping is to achieve a high quality aesthetic and will assist in reducing the visual dominance of the structures behind. The landscaping adequately softens views to the site from adjoining Pittwater Road and Condamine Street and reflects the scenic quality of the Northern Beaches, further emphasising the sense of arrival to the vicinity.

Requirements	Complies
20. Landscaping is to be retained and enhanced and provided generally in the zones shown in Figure 8.	Yes
21. The existing mature landscaping at the junction of Pittwater Road/Condamine Street is to be retained where practical and functional for the future design of this precinct. An illustrative example of possible future development outcomes at this location is shown at Figure 9 (refer to the attached G4 - Warringah Mall DCP).	Yes
22. New development along Condamine Street and Pittwater Road is to incorporate landscaping that screens or softens non-active facades or building elements.	Yes
23. Landscaping treatments are to be integrated into the design of new entries to the centre.	Yes
24. Recycled water or harvested rainwater is to be used, where possible, to irrigate new landscaped areas.	Yes
25. Water efficient plants and/or, locally indigenous vegetation should be used to minimise water consumption.	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. Mod2015/0247 for Modification of Development Consent DA2008/1742 granted for Construction of stormwater upgrade works for Warringah Mall and watercourse bank stabilisation works on land at Lot 100 DP 1015283,145 Old Pittwater Road, BROOKVALE, Lot 2741 DP 752038,2741 / 9999 Condamine Street, MANLY VALE, Lot 2 DP 600059,75 Old Pittwater Road, BROOKVALE, Lot 2742 DP 752038,2742 / 9999 Condamine Street, MANLY VALE, Lot 30 DP 204107,30 / 0 Old Pittwater Road, BROOKVALE, subject to the conditions printed below:

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

Landscape Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
97.0701 Revision rev. no. A	17 February 2016	Scente Group
la sw 0502 Revision rev. no. A06	25 February 2016	DEM
la sw 0503 Revision rev. no. A05	1 October 2015	DEM

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Assessment Report	30 September 2015	Jacksons Nature Works
Sydney Water Sewer Diversion Letter and Plans	31 July 2015	Sydney Water
Tree Management Plan & Specifications	February 2015	Jacksons Nature Works

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

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

Modify Condition 48. Tree Condition to read as follows:

Only those trees nominated for removal in the following reports are to be removed:

- Tree Report – Warringah Mall Brookvale Development dated November 2008 prepared by Treescan, shown on the bank stabilisation works plans and described in the Environmental Management Plan, and
- Arboricultural Assessment Report dated 30 September 2015 prepared by Jacksons Nature Works

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

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

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

Tree protection measures are to comply with those specified in the following documents:

- Tree Report – Warringah Mall Brookvale Development dated November 2008 prepared by Treescan, and
- Arboricultural Assessment Report dated 30 September 2015 prepared by Jacksons Nature Works
- Tree Management Plan & Specifications dated February 2015 prepared by Jacksons Nature Works

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

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

Reason: Protection of Trees (DACLAE03)

Modify Condition 55. Required Planting to read as follows:

Tree planting is to be implemented as indicated on the approved plans and in the Environmental Management Plan, as amended by the following Landscape Plans detailed below:

Number of replacement trees required	Species	Location
In accordance with the approved Landscape Plans:	In accordance with the approved Landscape Plans:	In accordance with the approved Landscape Plans:
la sw 0502 Revision rev. no. a06, dated 25 February 2016 by DEM; and	la sw 0502 Revision rev. no. a06, dated 25 February 2016 by DEM; and	la sw 0502 Revision rev. no. a06, dated 25 February 2016 by DEM; and
la sw 0503 Revision rev. no. a05, dated 1 October 2015 by DEM	la sw 0503 Revision rev. no. a05, dated 1 October 2015 by DEM	la sw 0503 Revision rev. no. a05, dated 1 October 2015 by DEM


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)

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

	Title	Date
 Notification Document 2015/343849	Notification map	19/11/2015

ATTACHMENT C

Reference Number	Document	Date
 2015/329967	Appendix C - Arborist Report	20/10/2015
 2015/329961	Report Statement of Environmental Effects	29/10/2015
 2015/329965	Appendix B - Landscape Statement and Plans	29/10/2015
 2015/329968	Appendix D - Sydney Water Sewer Diversion Letter and Plans	29/10/2015
 MOD2015/0247	Warringah Mall 145 Old Pittwater Road BROOKVALE NSW 2100 - Section 96 Modifications - Section 96 (2) Environmental Impact	02/11/2015
 2015/324326	DA Acknowledgement Letter - Scentre Group Ltd	02/11/2015
 2015/329954	Modification Application Form	06/11/2015
 2015/329957	Applicant Details	06/11/2015
 2015/329958	Plans - Notification	06/11/2015
 2015/333690	File Cover	10/11/2015
 2015/333712	Referral to AUSGRID - SEPP - Infrastructure 2007	10/11/2015
 2015/333761	Roads Traffic Authority referral (SEPP Infra. Traffic generating dev)	10/11/2015
 2015/333786	State Transit Authority referral	10/11/2015
 2015/338703	Development Application Advertising Document - Scentre Group Ltd	13/11/2015
 2015/341294	Development Engineering Referral Response	17/11/2015
 2015/343843	Notification letter 453	19/11/2015
 2015/343849	Notification map	19/11/2015
 2015/359663	Referral Response - Roads and Maritime Services	03/12/2015
 2015/360394	Referral Response - Roads and Maritime Services	04/12/2015
 2015/364516	Online Submission - Sharp	08/12/2015
 2015/369957	Questions Regarding Drainage - Ann Sharp - Warringah Mall Library 145 Old Pittwater Road	14/12/2015
 2015/389569	Superseded - Landscape Referral Response	30/12/2015
 2016/074534	Landscape Referral Response	09/03/2016

PANEL PLANS

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