

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2016/0676
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<b>Responsible Officer:</b>	Adam Mitchell
<b>Land to be developed (Address):</b>	Lot 100 DP 1015283, 145 Old Pittwater Road BROOKVALE NSW 2100
<b>Proposed Development:</b>	Increase in seating capacity of an existing restaurant
<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>	
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	AMP Warringah Mall Pty Ltd Scentre Management Ltd
<b>Applicant:</b>	Reina Ju

<b>Application lodged:</b>	06/07/2016
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	21/07/2016 to 05/08/2016
<b>Advertised:</b>	Not Advertised, in accordance with A.7 of WDCP
<b>Submissions:</b>	0
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 5,000.00
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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:

- 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

Warringah Development Control Plan - G4 Warringah Mall

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 100 DP 1015283 , 145 Old Pittwater Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>The subject premise is a restaurant located wholly within the Westfield Warringah Mall shopping centre, located north of the Condamine Street and Old Pittwater Road junction.</p> <p>The restaurant is consistent with other premises within the mall which range from restaurants, retail outlets and service outlets.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for the subject premise.

The Warringah Mall shopping centre is currently undergoing a major period of renovation and refurbishment both internally and externally.

The land has been used for commercial purposes for an extended period of time.

## PROPOSED DEVELOPMENT IN DETAIL

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This development application seeks to increase the seating capacity of a restaurant from 47 seats to 63 seats. The restaurant is located within Warringah Mall.

There are no proposed structure changes to the restaurant or to Warringah Mall.

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

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

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(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. 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 clause is not relevant to this application.</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 clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</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>

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Section 79C 'Matters for Consideration'	Comments
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

## NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition of the application Council received no submissions.

## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.
Health and Protection (Food Premises, Skin Pen.)	No Objections to increase seating
Traffic Engineer	The proposal is for the increase of seating capacity of an existing restaurant from 47 to 63 seats.  No objection is raised on the proposal on traffic grounds subject to the Development Assessment Officer approval.

## 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 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 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

This development application is for an increase of seating in a restaurant and proposes no changes to the Principal Development Standards.

### Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes

## **Warringah Development Control Plan**

### Built Form Controls

This development application is for an increase of seating in a restaurant and proposes no changes to the Built Form Controls.

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## Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C3 Parking Facilities	Yes	Yes
Non-Residential Development	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
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
G4 Warringah Mall	Yes	Yes

## Detailed Assessment

### **C3 Parking Facilities**

#### Description of non-compliance

Council is required to consider the car parking provisions available to the development.

#### Merit consideration

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

- *To provide adequate off street carparking.*

#### Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Restaurant	1 space per 3 seats	21 spaces	N/A	N/A
<b>Total</b>		21 spaces		



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The subject site is a premise within a larger shopping complex being Warringah Mall. Recently the car parking has significantly increased at the shopping complex as a part of a major redevelopment of the site.

This development application is reliant upon the shared car parking supplied for the whole shopping complex.

It is considered that patrons to the subject premise are visiting Warringah Mall and numerous other premises within their trip. As such, the subject premise of this development application is not considered to be a sole-destination.

It is considered that the provision of car parking provided within the shopping centre is satisfactory and this development application to increase the seating capacity of the restaurant by 13 seats will not be detrimental to the existing car parking provisions.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

No works proposed to car parking facilities.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

No works proposed to car parking facilities.

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

## D3 Noise

It is considered that the increase in seating therefore patrons from 47 to 63 will not result in an unreasonable or detrimental increased level of noise.

Furthermore, the amenity of surrounding businesses and pedestrians will not be unreasonably impacted upon by the increase of noise consequent of increased seating numbers given the nature of general noise within a shopping centre.

## 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 seeks to increase the seating capacity of an internal restaurant from 47 seats to 63 seats. There are no proposed construction or structural works. The restaurant is wholly and entirely within the Warringah Mall shopping centre and is not visible from outside of the centre.

## **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	
<b>Objectives</b> <ul style="list-style-type: none"> <li><i>To ensure that new development makes a positive contribution to the streetscape and public domain.</i></li> <li><i>To ensure a high standard of architectural design.</i></li> <li><i>To achieve high quality urban design internally and externally and high levels of pedestrian comfort in the public spaces of the centre.</i></li> <li>To emphasise key nodes and entry points to create a sense of arrival.</li> <li><i>To encourage the use of high quality, durable and robust materials.</i></li> <li><i>To ensure the design response reflects the Northern Beaches vernacular/lifestyle.</i></li> </ul>	
<p><u>Comment:</u></p> <p>The application proposes no amendments to the existing structure or physical fabric of Warringah Mall. The increase in seating will be consistent with the objectives and desired future character of the site and will not be detrimental to public or private amenity.</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.	N/A
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.	N/A
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	N/A



existing bus stops.	
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.	N/A
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.	N/A
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

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this 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 Development Consent to DA2016/0676 for Increase in seating capacity of an existing restaurant on land at Lot 100 DP 1015283, 145 Old Pittwater Road, BROOKVALE, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
SCREW/05 Revision 0	1 July 2016	Studio MKZ

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

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

2. **Number of Patrons**

To restaurant is to seat a maximum of sixty-three (63) patrons at any one time.

Reason: To maintain amenity and safety within the premise. (DACPLBOC1)

### FEES / CHARGES / CONTRIBUTIONS

# NORTHERN BEACHES COUNCIL

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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**Adam Mitchell, Planner**


The application is determined under the delegated authority of:

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**Steven Findlay, Development Assessment Manager**

# NORTHERN BEACHES COUNCIL

## ATTACHMENT A















Notification Plan	Title	Date
 2016/230184	Plans - Notification	12/07/2016

## ATTACHMENT B

Notification Document	Title	Date
 2016/243480	Notification Map	20/07/2016

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## ATTACHMENT C

Reference Number	Document	Date
 2016/230197	Plans - Architectural	28/06/2016
 2016/230196	Report - Statement of Environmental Effects	28/06/2016
 2016/230193	DA Quote	29/06/2016
 DA2016/0676	Warringah Mall 145 Old Pittwater Road BROOKVALE NSW 2100 - Development Application - Alterations and Additions	06/07/2016
 2016/221170	DA Acknowledgement Letter - Reina Ju	06/07/2016
 2016/230174	Development Application Form	12/07/2016
 2016/230176	Applicant Details	12/07/2016
 2016/230182	Letter - Cover - Increased Seating	12/07/2016
 2016/230184	Plans - Notification	12/07/2016
 2016/243480	Notification Map	20/07/2016
 2016/243467	Notification Letters - 42	20/07/2016
 2016/256937	Environmental Health and Protection Referral Response - commercial use	02/08/2016
 2016/270352	Traffic Engineer Referral Response	15/08/2016
 2016/283733	Building Assessment Referral Response	29/08/2016