

## Statement of Environmental Effects

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Fit out and use of an existing commercial tenancy as a food and drink premises (El Jannah) including business identification signage at Warringah Mall, Tenancy Shop 2006/8, Cross Street, Brookvale

*14 August 2024*

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## 1. Introduction

This Development Application proposes the fit out and use of an existing tenancy as a food and drink premises including business identification signage for El Jannah at Warringah Mall, Tenancy Shop 2006/8, Cross Street, Brookvale (Lot 103 in DP 1247294).

The proposal is not viewed to have any adverse impacts on the surrounding area and is considered compatible with the contextual setting the tenancy is location within.

In consideration of the proposal and the merit consideration of the proposed development, the proposal is in our opinion:

- Consistent with the objectives of the DCP,
- Consistent with the objectives of the E2 Commercial Centre zone,
- Consistent with the aims of Warringah Local Environmental Plan 2011, and
- Consistent with the objectives of the relevant planning instruments.

The main body of this report reviews key planning considerations for Council as a consent authority under the heads of consideration of Section 4.15 of the Environmental Planning and Assessment Act 1979.

## 2. Site Details

### 2.1. Location

The tenancy falls within the Warringah Mall precinct, where the overall site is found on a large irregular shaped parcel of land that is bounded to the north by Cross Street and adjacent industrial lands, to the south by Old Pittwater Road and to the east by Condamine Street and Pittwater Road.

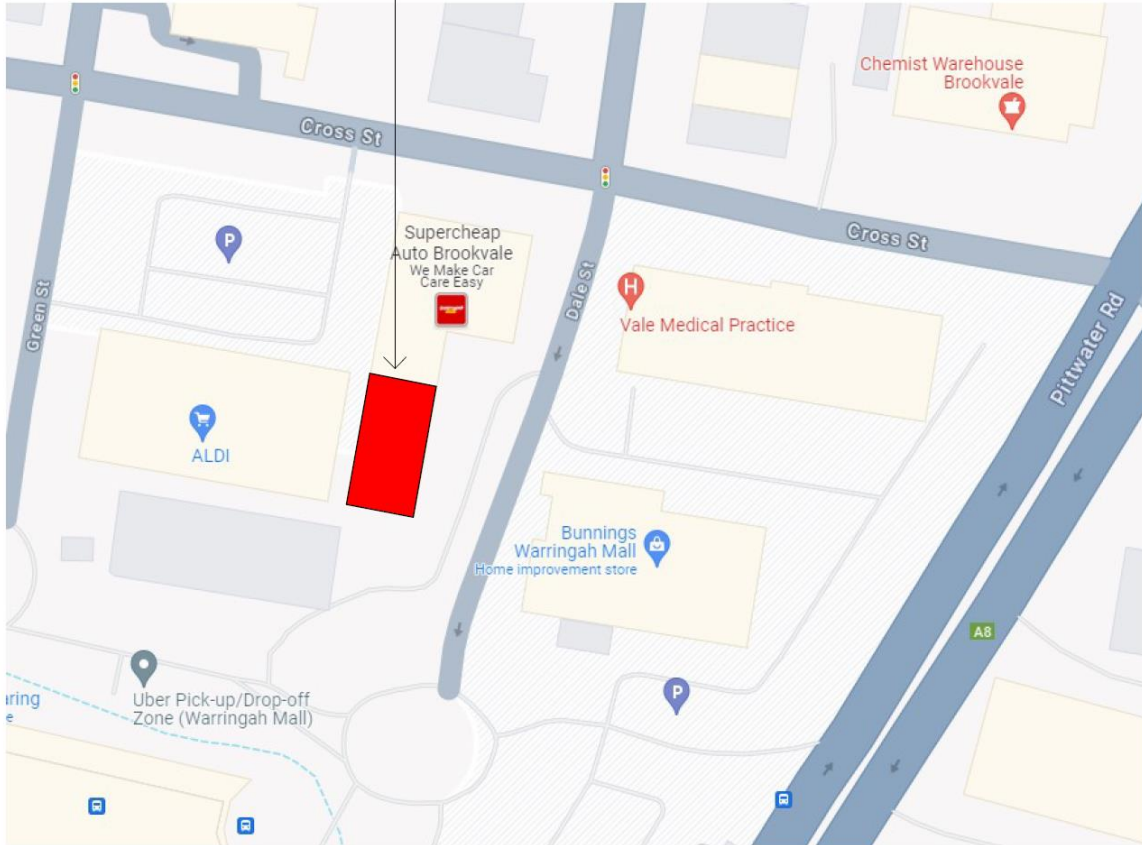
The site is legally known as Lot 103 in DP 1247294 and measures some 17 hectares in surface area and the area of tenancy where the Development Application applies is some 241.4 sq.m and is known as Tenancy 2006/8.

The overall site accommodates Warringah Mall which is the regional shopping centre with associated multi-storey and at-grade car parking.

Vehicle access to the site is found from multiple locations and includes along the Old Pittwater Road, Pittwater Road and Cross Street frontages of the site.

The tenancy is located at the ground floor next to Any Time Fitness, and other prominent operators are Supercheap Auto and the Bunnings Warehouse premises that access from Dale Street which connects to Cross Street.

SUBJECT SITE: EL JANNAH -  
WARRINGAH MALL.  
TENANCY SHOP 2006/8, CROSS ST,  
BROOKVALE, NSW



Location Plan

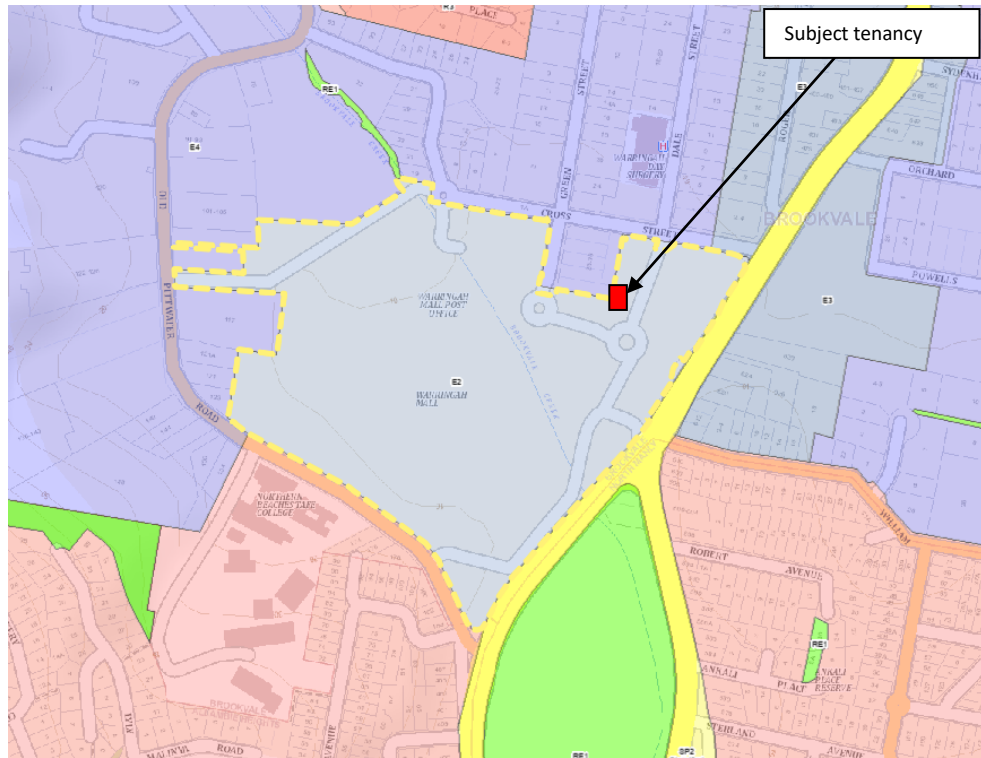


Subject premises- Tenancy 2006/8

## 2.2. Zoning

The site is zoned E2 Commercial Centre under Warringah Local Environmental Plan 2011.

A zoning plan of the site is provided below.



Zoning Plan

## 3. Development proposal

The Development Application submitted to Council seeks permission to carry out:

- Fit out and use of the existing commercial tenancy as a food and drink premises,
- 42 seats in total (30 internal seats and 12 external seats),
- The restaurant is to be part of the El Jannah franchise,
- Business identification signage as shown on the architectural drawings and including illumination and graphics for El Jannah, and
- Alterations and additions to the tenancy as shown on the architectural drawings including new roller shutter, new doors, lighting and shop front decals.

The proposed days/hours of operation:

Days	Internal areas	External areas
Daily	6am to 11pm	6am to 11pm

Staffing:

- 2 full time staff, 4 part time staff and 4 casual staff are to be employed at the Restaurant.

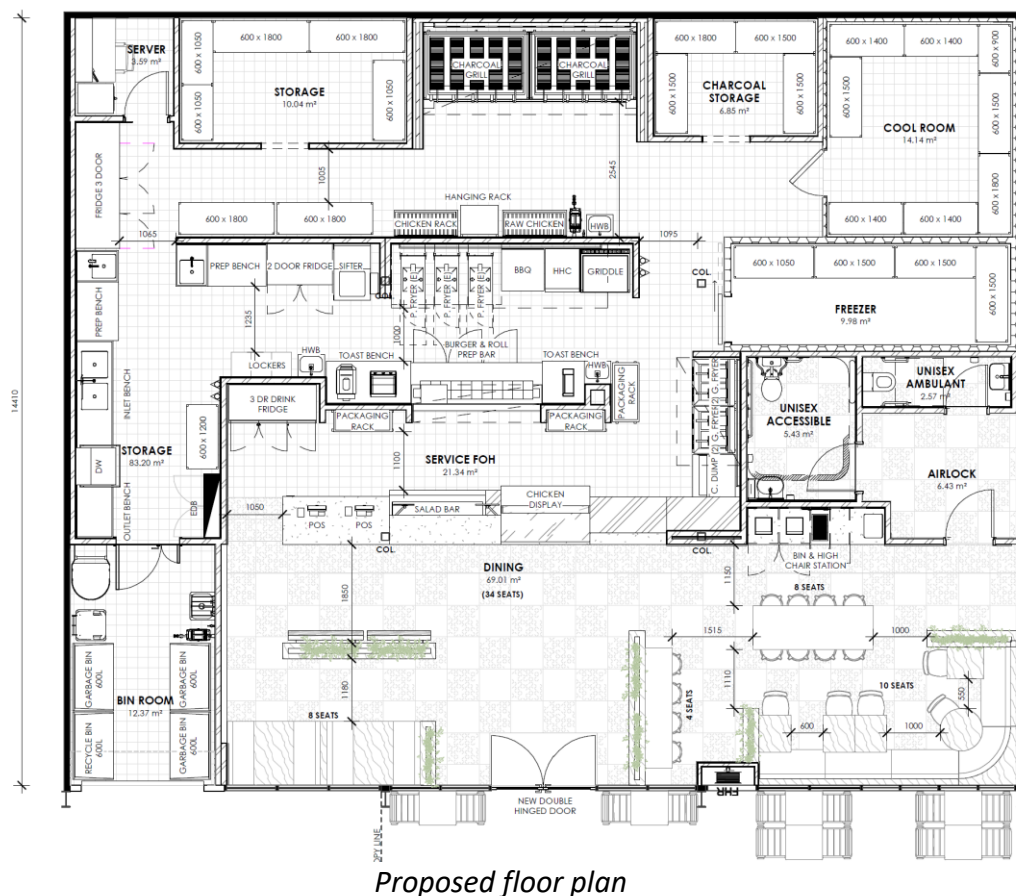
Method of cooking:

- Installation of a new mechanical ventilation system to support solid fuel/charcoal cooking.

Liquor:

- Strictly no alcohol is to be consumed on site.

The works are illustrated below.



All relevant architectural plans and other supporting documents accompany the Development Application.

#### 4. Matters of Consideration

##### 4.1. Section 4.15(1)(A)(I) – any environmental planning instruments

###### **State Environmental Planning Policy (Industry and Employment) 2021**

###### Chapter 3 Advertising and signage

Signage is proposed as part of this Development Application that warrants assessment.

Under Part 3.2 Signage generally of the SEPP, it reads:

###### *3.6 Granting of consent to signage*

*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—*

*(a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and*

*(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

###### Compatibility with surrounding character

The proposal is compatible with the desired character and amenity of the business locality.

The signage will be consistent in size, design and content to existing and likely future signage within the business zone.

###### Effective Communication

The proposal provides effective communication by enabling the public to locate the local business.



Design Quality

The proposal is of high-quality modern design and finish.

Schedule 5 Assessment

Assessment Criteria	Yes	No	Comments
<b>1 Character of the area</b>			
<ul style="list-style-type: none"> <li>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</li> </ul>	X		The proposal is compatible with existing and future character of the locality being found within the Warringah Mall precinct.
<ul style="list-style-type: none"> <li>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</li> </ul>	X		The proposal is consistent in design and content with signage being erected in the LGA and is a modern form of signage and would not be out of context in our view.
<b>2 Special areas</b>			
<ul style="list-style-type: none"> <li>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterway, rural landscapes or residential areas?</li> </ul>		X	The site is located within Warringah Mall precinct and is viewed appropriate to allow the use of a vacant tenancy as an eating place.
<b>3 Views and vistas</b>			
<ul style="list-style-type: none"> <li>Does the proposal obscure or compromise important views?</li> </ul>		X	The placement of the new signage does not compromise any important views or vistas in our view and is expected to the edge of the tenancy as shown.
<ul style="list-style-type: none"> <li>Does the proposal dominate the skyline and reduce the quality of the vistas?</li> </ul>		X	The signage does not protrude above the dominant skyline and is limited to the tenancy.
<ul style="list-style-type: none"> <li>Does the proposal respect the viewing rights of other advertisers?</li> </ul>	X		The proposed signage does not adversely visually obstruct other advertising structures and is to be fixed to the tenancy as shown on the drawings.
<b>4 Streetscape, setting or landscape</b>			
<ul style="list-style-type: none"> <li>Are the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</li> </ul>	X		The proposed signage is consistent in form with typical signage erected and found in the Warringah Mall precinct.
<ul style="list-style-type: none"> <li>Does the proposal contribute to the</li> </ul>	X		The purpose of the new

visual interest of the streetscape, setting or landscape?			<p>signage is to inform patrons of the location of a local business and being of a contemporary attractive design and presentation and in line with the franchising scheme.</p> <p>We feel the proposal will contribute positively to the visual interest of the streetscape and Warringah Mall precinct that shows continued improvement and investment.</p>
<ul style="list-style-type: none"> <li>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</li> </ul>	<b>X</b>		The simplicity of the new signage in our view is for business identification purposes of the new tenancy and is minimized and does not add any clutter on site.
<ul style="list-style-type: none"> <li>Does the proposal screen unsightliness?</li> </ul>		<b>X</b>	The area does not have unsightly areas in our view that is uncommon.
<ul style="list-style-type: none"> <li>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</li> </ul>		<b>X</b>	No, as the new signage is attached to the tenancy as shown and is appropriate for the setting being the Warringah Mall precinct.
<ul style="list-style-type: none"> <li>Does the proposal require ongoing vegetation management?</li> </ul>		<b>X</b>	No, as there is no vegetation to be affected by the new works as the works are a fit out and change of tenancy.
<b>5 Site and building</b>			
<ul style="list-style-type: none"> <li>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</li> </ul>	<b>X</b>		<p>The fit-out proposal is considered compatible with the scale, proportion of the other buildings located in the Warringah Mall precinct.</p> <p>Minimal works are proposed to the façade to the tenancy and in all would remain not antipathetic and is assessed from an urban design viewpoint as being a neutral outcome.</p>
<ul style="list-style-type: none"> <li>Does the proposal respect important features of site or building, or both?</li> </ul>	<b>X</b>		There are no important features on or within the site that are to be affected as the building is not of

			individual heritage significance as there are no rare or important fabric to be discovered.
<ul style="list-style-type: none"> <li>Does the proposal show innovation and imagination with relation to the site or building or both?</li> </ul>	X		The sign implements an updated and sensible approach that is acceptable for a franchise business.
<b>6 Associated devices and logos with advertisements and advertising structures</b>			
<ul style="list-style-type: none"> <li>Have any safety devices, platforms lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</li> </ul>	X		Given the nature of the advertising, this can be satisfied as a condition of consent and therefore can be met.
<b>7 Illumination</b>			
<ul style="list-style-type: none"> <li>Would illumination result in unacceptable glare?</li> </ul>		X	No, as the illumination would be backlit light which is low impact and not a distraction.
<ul style="list-style-type: none"> <li>Would illumination affect safety for pedestrians, vehicles or aircraft?</li> </ul>		X	No, for the reasons above and will not result in unacceptable glare given the signage is of low impact.
<ul style="list-style-type: none"> <li>Would illuminated detract from the amenity of any residence or other form of accommodation?</li> </ul>		X	No, given the location and type of signage proposed is acceptable for Warringah Mall precinct.
<ul style="list-style-type: none"> <li>Can the intensity of the illumination be adjusted, if necessary?</li> </ul>	X		Yes, the illumination can be reduced if required by the consent authority.
<ul style="list-style-type: none"> <li>Is the illumination subject to curfew?</li> </ul>		X	No, if necessary, the illumination can be controlled by an appropriate day night sensor and this is not warranted.
<b>8 Safety</b>			
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for any public road?</li> </ul>		X	No, the signage is to be placed to existing improvements and is low impact in our view and unlikely to raise risk considerations.
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for pedestrian or bicyclists?</li> </ul>		X	No, as the signage is unlikely to impact the use of the private footway as the signage is to be placed on existing improvements.
<ul style="list-style-type: none"> <li>Would the proposal reduce the safety for pedestrians, particularly children, obscuring sightlines from public</li> </ul>		X	No, as the signage is located above the line of sight and there would be no negative

areas?			connotations in our view.
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**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The site is not located on the foreshore or adjacent to a waterway and therefore, except for the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

The existing drainage system is to be retained as the works are confined to the fit out with no new parts being created as part of the proposal.

We can say all stormwater disposal will be managed and directed to Council’s existing drainage system and is capable of compliance with Council’s standards.

**State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 Remediation of Land

Pursuant to Clause 4.6 of the SEPP, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Considering the continuance in land use i.e., business, and commercial activity, the site does not have any other previous land use, no further contamination assessment is required.

**Warringah Local Environmental Plan 2011**

Permissibility

The subject site is zoned E2 Commercial Centre under Warringah Local Environmental Plan 2011.

The use of the site as a restaurant or cafe, a type of food and drink premises, which satisfies the definition of a commercial premises and the proposed development is permissible in this zone with consent.

The proposal is consistent with the relevant objectives of the E2 Commercial Centre zone to allow a variety of compatible land uses.

A summary of our assessment of the proposed development against the relevant clauses within the LEP is in the following table.

LEP Clause	Compliance with Requirements
4.3 – Height of Buildings (11 metres)	There is no change to the tenancy as the works are for a fit out.
6.1 – Acid sulfate soils	Yes
6.3 – Flood planning	Yes
6.4 – Development on sloping land	Yes

#### 4.2. Section 4.15(1)(A)(ii) – any draft environmental planning instrument(s)

There are no known draft environmental planning instruments which affect the site in terms of the tenancy fit out and use as a food and drink premises.

#### 4.3. Section 4.15(1)(A)(iii) – any development control plan(s)

The proposed changes do not compromise the core objectives of Warringah Development Control Plan in our view and we provide our reasons below as the controls relate to a new built form, which is not the case because we are dealing with a fit out of an existing commercial premises.

#### Compliance Analysis

Clause	Compliance with requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and	Yes	Yes

Materials		
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	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
G4 Warringah Mall	Yes	Yes

Given the nature of proposed works compliance with non-statutory controls that are applicable is achieved.

#### **4.4. Section 4.15(1)(A)(iiia) - any planning agreement or draft planning agreement**

There are no related matters for consideration in terms of a planning agreement or draft planning agreement which affect change in tenancy.

#### **4.5. Section 4.15(1)(B) - the likely impacts of the development**

##### Car parking

There is no increase to the existing floor area of the commercial tenancy, and we note the subject tenancy benefits from existing car parking located on site for the overall Warringah Mall precinct.

We are aware the immediate public transport nodes service to the site is well connected with the wider state transport infrastructure.

All loading and delivery of goods is to occur outside the hours of operation and loading and unloading is to occur from the existing car parking facility.

### Acoustics

It is not anticipated that the site will generate any noise above and beyond that already in the area from traffic and other business and commercial operators.

### Air quality

A new mechanical ventilation system and piping is proposed for the restaurant fit out.

All cooking appliances and equipment will be located in the kitchen and will have a mechanical exhaust hoods located over them.

The new exhaust system/air cleaner unit as part of the kitchen workflow will feature an odour control unit.

An odour sampling and testing program to evaluate the efficiency of the odour control unit under normal operations and actual performance from an odour destruction viewpoint.

Odour sampling and testing will be undertaken according to the methods prescribed in Australia Standard 4323.3 or as suggested by the consent authority.

Deemed to comply as conditions of consent to be imposed to ensure that the potential for increased air pollution has been minimised.

### Waste

Waste storage areas have been provided within the building as shown on the drawings.

Compliance with waste stream targets and collection times are deemed to comply as conditions of consent.

### Lighting

New external lighting is proposed for security reasons and to provide better visibility properties to the tenancy after darkness.

We feel that the proposal is compatible with other adjoining commercial activities and land user and there are no undesirable socio-economic impacts that will result from the proposed change in tenancy.

**4.6. Section 4.15(1)(C) - the suitability of the site**

The proposal will not increase the demand for public services or facilities as the proposal can comply with the national construction code readily.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate prescribed conditions being imposed by Council.

**4.7. Section 4.15(1)(D) - any submission made**

Submissions are viewed unlikely given the scope of works and which are likely to have minimal or acceptable impacts.

**4.8. Section 4.15(1)(e) - the public interest**

The proposal is not contrary to the public interest.

There are no adverse effects on adjoining properties given the site has been zoned to allow for a range of uses including food and drink premises, and this has been demonstrated in this Report.

**5. Conclusion and Recommendation**

The main body of this report reviewed key planning considerations for a consent authority under the heads of consideration of Section 4.15 of the Environmental Planning and Assessment Act 1979.

The proposal is not viewed to have any adverse impacts on the surrounding commercial area and is considered compatible with the surrounding locality.

The proposed development is permissible with consent and the commercial use is appropriate for the Warringah Mall precinct.

Having regard to all the above matters, it is considered that the proposal for fit out works for the food and drink premises meets the relevant strategy, objectives and provisions of the Warringah LEP and the DCP.

The proposed works are within acceptable limits, and the new tenancy will encourage continued use of the approved commercial space and thus provides much needed employment opportunities within the locality and is a highly desirable outcome.



On this basis, it is recommended the Development Application be approved subject to conditions.

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