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The General Manager  
Warringah Council  
Civic Drive  
725 Pittwater Road  
Dee Why, NSW 2099

Dear Sir/Madam

**S96 (1A) MODIFICATION APPLICATION TO AMEND CONDITION NO 1 OF DA 2013/1515  
145 OLD PITTWATER ROAD, BROOKVALE NSW 2100.**

**1.0 Introduction**

In support of this Section 96 (1a) application please find enclosed:

1. Completed S96 Application Form;
2. Cheque for Section 96(1A) assessment fee, in the amount of **\$645.00**;
3. Six (6) copies of this letter-form Statement of Environmental Effects;
4. One (1) electronic copy of all documentation.

This application letter for a Section 96(1A) application has been prepared by McKenzie Group Consulting Planning (NSW) on behalf of Westfield. It supports a S96(1A) application to Warringah Council to amend Condition 1 of the approved alterations and additions to retail premises (DA 2013/1515) at 145 Old Pittwater Road, Brookvale, NSW, 2100.

The proposed development does not present any significant environmental impacts and the proposal will remain substantially the same as that approved under the original application.

Development Consent under Section 96(1A) of the *Environmental Planning and Assessment Act, 1979* states:

*(1A) Modifications involving minimal environmental impact*

*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) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) under this section, and*

- (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*
- (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.*

The proposed modifications provide for a minor change to the approved development consent and do not have any environmental impact. No changes to the building footprint or use of the site are to occur and changes will respond only to the approved development condition requirements. Therefore the proposed development is considered to be substantially the same as required by Section 96 (1A).

Accordingly it is considered that Section 96(1A) is the most appropriate mechanism for the proposed modifications to the consent.

## 2.0 Background

Development Consent (DA 2013/1515) was granted on 15/01/2014 for alterations and additions to retail premises at 145 Old Pittwater Road, Brookvale, NSW, 2100. A copy of this consent is attached as **Appendix 1** of this report. Attached in **Appendix 2** are the stamped plans associated with DA 2013/1515.

The applicant, Westfield, is now applying for consent to amend Condition 1 of the consent to change the size of the retail area. The amendments have been proposed to meet the needs of the sites tenant (Coco Noir) in providing additional retail area for to suit business/retail operations.

Condition 1 of DA consent 2013/1515 relates to the drawings/details subject to the compliance. The existing wording is as follows:

**(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*

<b>Architectural Plans – Endorsed with Council's Stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared by</b>
120000(A) Bridge Extension Location Diagram	11/11/2013	Westfield Design & Construction Pty Ltd
120001(E) Bridge Extension Plans, Elevations, Sections & Details	26/11/2013	Westfield Design & 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)*

### 3.0 Proposed Modification

This proposal seeks to amend Condition 1 which will modify the retail area dimensions by filling in part area of adjacent void, resulting in additional floor space of 58sqm. The minor modifications will allow for a larger retail area compliant with all necessary controls of *Warringah Local Environmental Plan 2011 (WLEP 2011)* and the *Warringah Development Control Plan 2011 (WDCP2011)*.

To reflect the proposed modifications to the relevant conditions, text proposed to be deleted is indicated by 'strikethrough' text and text proposed to be added is indicated by **bold** text as follows:

**(2) 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*

<b>Architectural Plans – Endorsed with Council's Stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared by</b>
<del>120000(A) Bridge Extension Location Diagram</del>	<del>11/11/2013</del>	<del>Westfield Design &amp; Construction Pty Ltd</del>
<b>120000(1) Bridge Extension Location Diagram</b>	<b>23/06/2014</b>	<b>Westfield Design &amp; Construction Pty Ltd</b>
<del>120001(E) Bridge Extension Plans, Elevations, Sections &amp; Details</del>	<del>26/11/2013</del>	<del>Westfield Design &amp; Construction Pty Ltd</del>
<b>120001(F) Bridge Extension Plans, Elevations, Sections &amp; Details</b>	<b>01/08/2014</b>	<b>Westfield Design &amp; Construction Pty Ltd</b>
<b>120002(F) Bridge Extension Plans, Elevations, Sections &amp; Details</b>	<b>01/08/2014</b>	<b>Westfield Design &amp; Construction Pty Ltd</b>

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

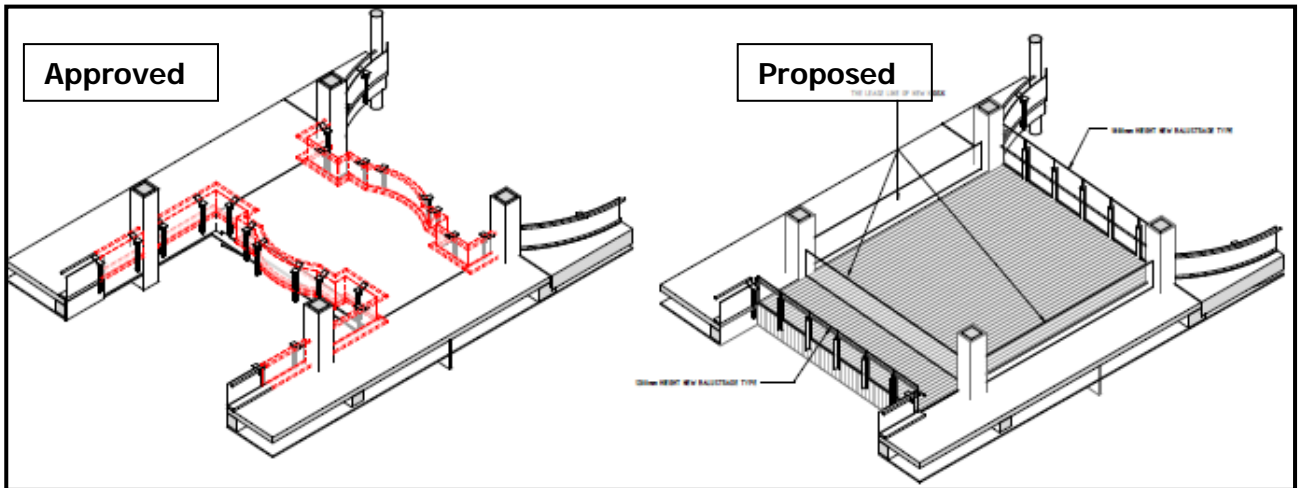
*c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.*

*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)*

The proposed amendments will allow for a larger retail space to facilitate a licensed seating zone which will increase the economic viability of the centre and contribute to the commercial viability of the Warringah Mall as a whole.

A 'cut-out' comparison of the approved plan and proposed plan can be seen in **Figure 1** below which details the amendments. As shown below void space is replaced by floor area.



**Figure 1. Comparison of Approved Plan and Proposed Plan.**

A more detailed comparison of the amendments can be seen attached in the architectural plans, **Appendix 3**.

#### **4.0 S96 ASSESSMENT**

The site is zoned B3 Commercial Core Zone under the provisions of the *Warringah Local Environmental Plan 2011* (WLEP 2011). The proposal is consistent with the objectives of the B3 Commercial Core Zone. The proposed amendments will meet the needs of the sites tenant which in turn will support the pre-eminent role of business within the Warringah Mall.

The proposed increase in gross floor area is permissible with the consent of council under the WLEP 2011. The use of the additional floor space will be consistent with the existing retail premises and use of the mall. The proposed works will support the development of the Warringah Mall as a facility to provide a range of retail, leisure, community and ancillary services catering for the needs of the surrounding region, therefore recognising the role of Warringah Mall as a retail centre of sub-regional significance.

The WDCP acknowledges the Warringah Mall may be expanded by up to 35,000m<sup>2</sup> subject to compliance with all other relevant planning objectives and requirements. The proposal will result in the addition of 58m<sup>2</sup> of total floor space and will not result in the mall exceeding the maximum possible floor space increase of 35,000m<sup>2</sup>. The additional floor space will further enhance the economic viability of the Warringah Mall and the overall shopping experience for users of the site.

The additional 58m<sup>2</sup> increase in gross floor area represents a very minor alteration to the Warringah Mall. This will not create an increase in traffic movements and car parking provisions. The small-scale nature of the proposal, and the fact that this new space will not generate its own traffic demand, does not warrant a review of parking provision. Furthermore, it is considered that the number of parking spaces already provided throughout the Warringah Mall development is able to accommodate the proposal without any significant impact.

It is considered that the initial assessment contained in the previous Statement of Environmental Effects, prepared by MGC Planning will remain the same and cover the proposed amendments in this application therefore favourable consideration is requested.

The proposed modifications of DA 2013/1515 are compatible with the zone objectives. The proposal has been assessed against the matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* including relevant provisions of *Warringah Local Environmental Plan 2011* and the *Warringah Development Control Plan 2011*.

It is therefore recommended that Council grant development consent to the proposal.



Thomas Scott  
Planner  
McKenzie Group Consulting Planning (NSW) Pty Ltd  
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**Appendix 1** DA Consent 2013/1515



**Appendix 2** Stamped Plans for DA 2013/1515



# Appendix 3 Architectural Plans

