

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2016/0974
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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>	Construction of a cafe and associated signage within Warringah Mall Shopping Centre
<b>Zoning:</b>	LEP - Land zoned B3 Commercial Core LEP - Land zoned IN1 General Industrial
<b>Development Permissible:</b>	Yes - Zone B3 Commercial Core Yes - Zone IN1 General Industrial
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	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>	Keeplan Pty Ltd

<b>Application lodged:</b>	21/09/2016
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	10/10/2016 to 25/10/2016
<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>	\$ 90,000.00
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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 - C9 Waste Management  
 Warringah Development Control Plan - D23 Signs  
 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 site is identified as Shop K204 on the first floor of the Westfield Warringah Mall shopping centre.</p> <p>Warringah Mall is located north of the Condamine Street and Old Pittwater Road junction and is surrounded by Brookvale's industrial and commercial land uses to the north, east and west and residential land use located to the south. Presently the shopping centre is undergoing a significant period of renovation and extension and as such, much of the site is presently a construction site.</p> <p>This cafe is proposed to be in an area of the mall which is still under construction and as such, once opened, all surrounding shops and outdoor furniture will be new and with an updated aesthetic.</p>

Map:



## SITE HISTORY

The Warringah Mall shopping centre is presently undergoing a significant renovation, extension and restoration and

as such, multiple applications have been lodged for this site over the past years.

Most relevant to this subject development is to be within the footprint permitted under DA2008/1741 dated 28 April 2010.

## PROPOSED DEVELOPMENT IN DETAIL

This development application is for the fit-out of a cafe within the confines of the Warringah Mall shopping centre. The development also seeks consent for the use of the premise as a restaurant or cafe.

The use proposed as a restaurant or cafe is consistent with the WLEP 2011 definition:

*Restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.*

The cafe proposed is formed in a pavilion-like design with spatial separation between the kitchen and three seating structures. Seating in the form of tables and benches is proposed between the pavilions. In total, the cafe is applying for seating for 100 patrons.

The design of the cafe is appropriate to the design vernacular of Warringah Mall and the Northern Beaches. Given the recent and current renovations at Warringah Mall, it is considered that the design incorporating rustic and recycled materials with landscaping is complementary in materiality and scale and will be of benefit to the mall and it's patrons.

Included within the application is signage and operating hours.

The proposed operating hours of the cafe/restaurant are:

**Monday - Sunday: 6.30 am - 9.30 pm**

The operating hours proposed are subject to the operating hours permissible by the managing authority of the shopping centre. The hours proposed in this application allow for extended trading during peak times of the year and the premise, whilst consistent with this consent, will not operate at these hours daily as restricted by the current managing authority of the shopping centre.

The maximum number of staff at any one time is:

**Seven**

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.

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Section 79C 'Matters for Consideration'	Comments
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 matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This 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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered 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.

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Section 79C 'Matters for Consideration'	Comments
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 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	<p>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 subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i><u>Note:</u> The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate stage.</i></p>
Health and Protection (Food Premises, Skin Pen.)	<p>No objection to Food Premises construction/fit out .</p> <p>See conditions which include additional reference to floor /wall covering and height of equipment/legs above floor level which needs to be clarified.</p>
Natural Environment (Flood)	<p>The fit-out of a kiosk on the first floor at Warringah Mall is not considered to increase flood risk. No flood related development controls applied.</p>
Traffic Engineer	<p>There is no information provided by the applicant addressing the traffic and parking assessment. However, given the size of the development in the context of Warringah Mall, the traffic generation is not considered to have significant impact on the road network. In regards with the parking provision, Traffic Engineers do not have any objection to the proposal subject to the Development Assessment Officer to further consider the parking requirements in the context of the previous approval of Warringah Mall Development.</p>



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.

## 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 for the fit-out and use of a tenancy as a cafe within the footprint of 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 development 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 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3 (1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design

and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
<p><b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The proposed signage is to be on the exterior of a cafe located wholly within the confines of the Westfield Warringah Mall shopping centre. The shopping centre has multiple cafes and food outlets combined with hundreds of retail outlets, each of which have signage and advertising associated with the premises. As such, it is considered that the proposal is consistent with that of the existing character, and consistent with the future character which is predicted to not change within the foreseeable future.</p>	YES
<p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>The proposed signage and overall design concept of the premise is complementary to an outdoor, casual theme which is considered to be appropriate for the area.</p>	YES
<p><b>2. Special areas</b> 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, waterways, rural landscapes or residential areas?</p>	<p>The proposed signage is located entirely within the confines of the Westfield Warringah Mall shopping centre and as such, does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.</p>	YES
<p><b>3. Views and vistas</b> Does the proposal obscure or compromise important views?</p>	<p>No views are obscured or compromised by the proposed signage.</p>	YES
<p>Does the proposal dominate the skyline and reduce the quality of vistas?</p>	<p>The signage does not dominate the skyline nor reduce the quality of vistas as it is located wholly within the confines of a shopping centre.</p>	YES
<p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>Each business premise within the shopping centre has its own signage and as such, it is considered that the proposal is respectful of the viewing rights of other advertisers.</p>	YES
<p><b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</p>	<p>The proportion and scale of the signage is appropriate for the premise and is consistent with the of other signage within the shopping centre.</p>	YES
<p>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</p>	<p>The proposal does not detract from the visual interest of any setting and landscape.</p>	YES
<p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p>	<p>The advertising is considered to be simple and suitable for the site.</p>	YES
<p>Does the proposal screen unsightliness?</p>	<p>There is no unsightliness to be screened.</p>	YES
<p>Does the proposal protrude above buildings, structures or tree canopies in the area or</p>	<p>No.</p>	YES

# NORTHERN BEACHES COUNCIL

locality?		
<b>5. Site and building</b> 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?	The signage proposed is compatible with the scale and proportion of the of other surrounding signage as it is relative to the size of the business premise and is located within a shopping centre.	YES
Does the proposal respect important features of the site or building, or both?	The proposal is consistent with the character of the area and surrounding developments.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is consistent with the existing and desired future character of the site and surrounding developments.	YES
<b>6. Associated devices and logos with advertisements and advertising structures</b> 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?	No.	YES
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The subject signage is not proposed to be illuminated and as such, will not result in unacceptable glare.	YES
Can the intensity of the illumination be adjusted, if necessary?	The signage is not proposed to be illuminated.	YES
Is the illumination subject to a curfew?	The signage is not proposed to be illuminated.	YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The signage is located wholly within the confines of a shopping centre and as such, will not reduce safety from any roads or bicyclists. Pedestrians and patrons within the centre will be exposed to multiple signs and design elements that have each been designed to not reduce the safety of patrons.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal will not obscure sightlines and therefore will not reduce the safety of pedestrians.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

## 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



# NORTHERN BEACHES COUNCIL

- 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
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

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11.0m	4.45m	N/A	Yes

## Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
6.4 Development on sloping land	Yes

## **Warringah Development Control Plan**

### Built Form Controls

This development application is for the construction and operation of a cafe located wholly within an existing shopping centre and as such, there are no applicable built form controls to the development.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C9 Waste Management	No	Yes
Non-Residential Development	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D23 Signs	Yes	Yes
E10 Landslip Risk	Yes	Yes
Part G Special Area Controls	Yes	Yes
G4 Warringah Mall	Yes	Yes

### Detailed Assessment

#### **C3 Parking Facilities**

This proposal is for the fit-out and use of a premise as a cafe within the confines of the Warringah Mall shopping centre, as such this proposal will not create its own tenancy and will be absorbed into the existing retail space within the mall. Significant works to the mall have been undertaken recently including the construction of new car parking facilities.

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

It is considered that this subject cafe will be an ancillary use to other retail outlets within the mall and will not be a sole-destination. No additional or unreasonable increase in traffic will be generated consequent of this development alone. As such, it is considered that a detailed assessment on the provision of car parking is not warranted in this circumstance.

#### **C9 Waste Management**

A detailed waste management plan has not been submitted with the application. To ensure proper disposal of demolition and builders' wastes, a condition has been included in the consent requiring details prior to the issue of a construction certificate.

#### **D23 Signs**

The objectives of the control specific to the Warringah Mall special area have been addressed in Clause G4 of this report.

The signage proposed within this application consists of wall and awning/fascia signage of the following dimensions:

##### **Sign 01**

1050mm (W) x 200mm (H)

##### **Sign 02**

1220mm (W) x 225mm (H)

##### **Sign 03**

1150mm (W) x 210mm (H)

## Sign 04

2400mm (W) x 400mm (H)

2400mm (W) x 90mm (H)

## 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:

The proposed takeaway food and drink premise is located entirely within the confines of the Warringah Mall site and is not visible from outside of the site at any point.

The architecture, design, scale and materiality of the proposed development combines elements that will beneficially contribute to the updated architectural aesthetic of the shopping centre and as such, it is considered to be of a high urban design quality with finishes and signage that are complementary to other premises within the shopping centre. Furthermore, public amenity for patrons will be improved by virtue of a new cafe in the shopping centre, and the proposed landscaped elements will assist in ensuring that the design response reflects the Northern Beaches architectural vernacular.

## 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.

<b>Built Form</b>
<b>Design Quality &amp; Excellence</b>
<p><b>Objectives</b></p> <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>• <i>To emphasise key nodes and entry points to create a sense of arrival.</i></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>

# NORTHERN BEACHES COUNCIL

The development proposed is wholly within the confines of the existing shopping centre and as such, does not relate specifically to a number of the above objectives.

It is considered however that the proposal is of a high design quality by virtue of the interesting pavilion layout and combination of robust and seemingly coastal materials.

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.	Yes
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 existing bus stops.	N/A
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.	Yes
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

<b>Amenity</b>
<b>Landscaping</b>

## 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:

The subject development is not required to including any planting or landscaping.

Proposed is a series of planter boxes which, whilst not technically landscaped open space, will significantly contribute towards the objectives of the above and of Clause D1 Landscaped Open Space and Bushland Setting within the Warringah Development Control Plan 2011.

The applicant has provided details on how the planter boxes are self-watering and this will be of benefit to the mall to ensure the longevity of the plants as well as promotion of sustainable technologies.

Requirements	Complies
20. Landscaping is to be retained and enhanced and provided generally in the zones shown in Figure 8.	N/A
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).	N/A
22. New development along Condamine Street and Pittwater Road is to incorporate landscaping that screens or softens non-active facades or building elements.	N/A
23. Landscaping treatments are to be integrated into the design of new entries to the centre.	N/A
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

## Amenity

### Advertising and Signage

#### Objectives

- *To encourage well designed and suitably positioned signs which contribute to the aesthetic, vitality and legibility of the shopping centre while respecting the amenity of the area and the safety of motorists and*



pedestrians.

- To ensure that all business identification signage achieves a high level of design quality in terms of graphic design, its relationship to the architectural design of buildings and the character of streetscapes.
- To promote signs that add character to the streetscape and assist with way finding and the pedestrian usability of the centre.
- To promote signs that complement the architectural style and use of buildings.
- To consider the amenity of residential development and the visual quality of the public domain in the design and illumination of signage.
- To avoid the proliferation of signage along public roads.
- To ensure the provision of signage is proportional to the size and scale of building facades and setbacks.

Comment:

The signage proposed consists of four different type of wall and awning signs that act as business identification and are viewable from each angle when approaching the premise.

The signage is designed in a manner to be consistent with the desired character of the area as is demonstrated through the overall design concept of the proposed cafe. The character proposed is described as rustic and this is considered compatible with the open-air landscaped theme of the Northern Beaches vernacular displayed throughout the Westfield Warringah Mall shopping centre.

Requirements	Complies
31. A 'Signage Strategy' is to be submitted with all development applications proposing a significant increase in floor area or change to external façades of the building. A Signage Strategy must also be submitted with any development application for the provision of signs. The Signage Strategy shall identify the number and location of proposed signs, and demonstrate how the signs will be integrated into the design of the development.	N/A
32. All illuminated signs are to comply with any relevant Australian Standards.	N/A

## 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

## 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 DA2016/0974 for Construction of a cafe and associated signage within Warringah Mall Shopping Centre on land at Lot 100 DP 1015283, 145 Old Pittwater Road, BROOKVALE, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Registration of Food Business**  
**Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority(Council), prior to Occupational Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority (DACHPBOC4)

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>
Drawing No. A.01	31 August 2016	Miguel Gonzalez
Drawing No. A.02	31 August 2016	Miguel Gonzalez
Drawing No. A.03	31 August 2016	Miguel Gonzalez
Drawing No. A.04	31 August 2016	Miguel Gonzalez
Drawing No. A.05	31 August 2016	Miguel Gonzalez
Drawing No. A.06	31 August 2016	Miguel Gonzalez
Drawing No. A.07	31 August 2016	Miguel Gonzalez
Drawing No. B.01	31 August 2016	Miguel Gonzalez
Drawing No. B.02	31 August 2016	Miguel Gonzalez
Drawing No. B.03	31 August 2016	Miguel Gonzalez
Drawing No. B.04	31 August 2016	Miguel Gonzalez
Drawing No. S.01	31 August 2016	Miguel Gonzalez

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)

### 3. **Occupancy**

Nothing in this consent shall authorise the use of tenancy as detailed on the approved plans for any land use of the site beyond the definition of a restaurant or cafe.

A restaurant or cafe is defined as:

*"restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.*

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

### 4. **Prescribed Conditions**

# NORTHERN BEACHES COUNCIL

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

5. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.



# NORTHERN BEACHES COUNCIL

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system

# NORTHERN BEACHES COUNCIL

in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 6. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.warringah.nsw.gov.au/your-council/forms](http://www.warringah.nsw.gov.au/your-council/forms)).

Reason: To ensure adequate protection of Council's infrastructure.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 7. Waste Management Plan

A waste management plan that addresses Clauses C8 and C9 in the Warringah DCP must be prepared for this development.

Details of the method of transportation and location of the waste/recycling centres are to be included in the plan

Details demonstrating compliance must be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.(DACHPC03)

## 8. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 - 2009\* Design for access and mobility - General requirements for access - New building work\*\*
- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

[http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

### 9. Kitchen Design, construction and fit out of food premises certification

Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement with the requirements of AS 4674 Design, construction and fit out of food premises. This will include the floor/wall intersection coving and equipment/cupboards being on plinths : or on wheels or 150mm legs to assist cleaning.

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

Reason: To ensure that the kitchen complies with the design requirements. (DACHPFPOC3)

### 10. Mechanical Ventilation certification

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.  
Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

11. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

12. **Hours of Operation**

The hours of operation are to be restricted to

**Monday - Sunday - 6:30 am to 9:30 pm** (inclusive).

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)

13. **Seating**

The cafe is to have no more than 100 seats for patronage at any one time.

Reason: To ensure that the amenity of surrounding premises is maintained.(DACPLBOC1)

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:

# NORTHERN BEACHES COUNCIL

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**Rodney Piggott, Development Assessment Manager**




# NORTHERN BEACHES COUNCIL

## ATTACHMENT A




















No notification plan recorded.

## ATTACHMENT B

	<b>Title</b>	<b>Date</b>
 <b>Notification Document</b> 2016/331968	Notification Map	07/10/2016

# NORTHERN BEACHES COUNCIL

## ATTACHMENT C

Reference Number	Document	Date
 2016/317923	Plans - Master Set	20/09/2016
 2016/317922	Report - Statement of Environmental Effects	20/09/2016
 DA2016/0974	Warringah Mall 145 Old Pittwater Road BROOKVALE NSW 2100 - Development Application - New	21/09/2016
 2016/314832	DA Acknowledgement Letter - Keeplan Pty Ltd	21/09/2016
 2016/317913	Development Application Form	22/09/2016
 2016/317917	Applicants Details	22/09/2016
 2016/323584	Health and Protection (Food Premises, Skin Pen.) - Assessment Referral - DA2016/0974 - 145 Old Pittwater Road BROOKVALE - EB	28/09/2016
 2016/323594	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2016/0974 - 145 Old Pittwater Road BROOKVALE - TS	28/09/2016
 2016/323825	Natural Environment Referral Response - Flood	29/09/2016
 2016/324744	Building Assessment Referral Response	29/09/2016
 2016/329309	Environmental Health and Protection Referral Response - commercial use	05/10/2016
 2016/331913	Notification Letters - 44	07/10/2016
 2016/331968	Notification Map	07/10/2016
 2016/344491	Applicant correspondence	20/10/2016
 2016/351406	Traffic Engineer Referral Response	26/10/2016
 2016/358347	DELETE Assessment Report	02/11/2016
 2016/358579	DELETE Notice of Determination	02/11/2016
 2016/358592	Stamped Plans	02/11/2016
 2016/358606	Notice of Determination	02/11/2016