

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1378
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 100 DP 1015283, 145 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Change of Use of retail/business premises to an Amusement Centre (within Warringah Mall)
Zoning:	Warringah LEP2011 - Land zoned B3 Commercial Core Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes - Zone B3 Commercial Core Yes - Zone IN1 General Industrial
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Scentre Management Ltd
Applicant:	Scentre Group Pty Ltd
Application lodged:	21/08/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	30/08/2018 to 17/09/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 0.00

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 the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 100 DP 1015283 , 145 Old Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The site itself is situated on a large irregularly shaped parcel of land bound 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 area is approximately 170600sq.m.</p> <p>The site slopes from the northwest to the southeast and contains limited vegetation, with the only substantial planting located along the street frontages of the site and within the at-grade car parking areas. Vehicle access to the site is currently available at several locations along the Old Pittwater Road, Pittwater Road and Cross Street frontages of the site.</p> <p>The site accommodates Warringah Mall which is a partially enclosed shopping centre with associated multi-storey and at-grade car parking. Development including the mall and associated decked parking is generally positioned on the central and western thirds of the site. The eastern third contains at-grade parking and vehicular access ramps to upper level car parking.</p> <p>Recent retail expansion works included extensive refurbishing of centre court, restructuring and refurbishing the Myer tenancy, the construction of a new multi-deck car parking facility, and various other ancillary works including signage, landscape and traffic management works.</p> <p>Warringah Mall has a total gross lettable floor area of 136221sq.m.</p>

Map:



SITE HISTORY

The site has a history of use as the Warringah Mall. There are no relevant applications that affect the current application.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development involves the change of use of two existing tenancies for the purposes of an amusement centre use.

The tenancies the subject of this development application are Shop 2519 at Level 2 and Shop 6004S on Level 3.

Shop 2519 has an area of 417.9sqm and former use was retail (Valley Girl)

Shop 6004S has an area of 104.5sqm and former use was business (Laser Clinics)

The amusement centre use will involve the provision of video game simulators and ticket redemption facilities. It is envisaged that the number of amusement games will be limited to one per square metre of amusement centre (public) floor space.

Operating hours will be 10am to 12 midnight on Monday to Friday and 9am to 12 midnight on Saturday and Sunday.

Total patron capacity across the two tenancies is estimated to be 100.

At least one adult staff member will be present within each tenancy during operating hours.

This development application does not seek consent for any physical works such as demolition or tenancy fit-out. The demolition and fit-out works will be subject to a further development application or complying development certificate.

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 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (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) Environmental Impact 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) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the</p>

Section 4.15 Matters for Consideration'	Comments
	proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

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 the relevant 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>Note: 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.</p>

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.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
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After consideration of the merits of the proposal, is the development consistent with:

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 5 Miscellaneous provisions	Yes
5.8 Conversion of fire alarms	Yes
Part 6 Additional Local Provisions	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
Part E The Natural Environment	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
Part G Special Area Controls	Yes	Yes
G4 Warringah Mall	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Council Contributions Plan 2018

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 DA2018/1378 for Change of Use of retail/business premises to an Amusement Centre (within Warringah Mall) 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
LP2519-LOC	5/7/17	Scentre Design & Construction Pty Limited
LP2519.-1	5/7/17	Scentre Design & Construction Pty Limited
LP2519-2	5/7/17	Scentre Design & Construction Pty Limited
LP6004S-LOC	21/4/18	Scentre Design & Construction Pty Limited
LP6004S-1	21/4*18	Scentre Design & Construction Pty Limited
LP6004S-2	21/4/18	Scentre Design & Construction Pty Limited

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

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)

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

2. 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 Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Interim or Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, 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.

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

3. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 10am to 12am
- Saturday, Sunday and Public Holidays – 9am to 12am

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all staff 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)

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Phil Lane, Principal Planner

The application is determined on //, under the delegated authority of:




Steven Findlay, Manager Development Assessments





















ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2018/557284	Notification Map	29/08/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/536034	Plans - Leasing Plans Shop 2519	14/08/2018
 2018/536035	Plans - Leasing Plan Shop 6004S	14/08/2018
 2018/536053	Plans - Master Set - Leasing Plans Shop 2519	14/08/2018
 2018/536054	Plans - Master set - Leasing Plan Shop 6004S	14/08/2018
 2018/536022	Owners Consent Letter	14/08/2018
 2018/536024	Report - Statement of Environmental Effects	16/08/2018
 DA2018/1378	Warringah Mall 145 Old Pittwater Road BROOKVALE NSW 2100 - Development Application - Change of Use	21/08/2018
 2018/532603	invoice for ram applications - Scentre Group Pty Ltd	21/08/2018
 2018/532612	DA Acknowledgement Letter - Scentre Group Pty Ltd	21/08/2018
 2018/536018	Development Application Form	22/08/2018
 2018/536019	Applicant Details	22/08/2018
 2018/536020	Letter - cover	22/08/2018
 2018/536047	Plan - Notification - Shop 2159	22/08/2018
 2018/536060	Plan - External - Shop 2159	22/08/2018
 2018/536072	Plan - External - Shop 6004S	22/08/2018
 2018/536049	Plan - Notification - Shop 6004S	22/08/2018
 2018/552603	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/1378 - 145 Old Pittwater Road BROOKVALE NSW 2100	29/08/2018
 2018/556723	ARP Notification Map	29/08/2018
 2018/556753	DA Acknowledgement Letter (not integrated) - Scentre Group Pty Ltd	29/08/2018
 2018/557284	Notification Map	29/08/2018
 2018/557365	Notification Letter - 11	29/08/2018
 2018/624446	Building Assessment Referral Response	27/09/2018