



Warringah Mall

Section 96(1A) Modification to DA2008/1741

March 2016

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The application is supported by the following documentation:

- Revised Architectural Plan, prepared by Scentre Design and Construction Pty Ltd (**Appendix A**);
- View Impact Study of the amended Centre Court, Myer North and Myer Court Roof Structures, prepared by Scentre Design and Construction Pty Ltd (**Appendix B**); and
- Warringah Development Control Plan 2011 Compliance Table (**Appendix C**);

2 Approved Development

2.1 DEVELOPMENT CONSENT

Development Application DA2008/1741 was submitted to Warringah Council on 18 December 2008, concurrently with two other applications:

- Warringah Mall Shopping Centre Development Control Plan Application; and
- DA2008/1742 for stormwater drainage works through the Warringah Mall site.

Development applications DA2008/1741 and DA2008/1742 have both been determined, and the Warringah Mall DCP has been adopted by Council and forms Part G4 of the Warringah Development Control Plan 2011.

DA2008/1741 granted consent for the expansion of the retail offer in Warringah Mall and the associated new multi-level car park. These works are referred to as the 'Stage 1 Retail Expansion'.

Deferred commencement consent was issued by Council on 28 April 2010, with the deferred commencement condition relating to stormwater management for the approved works. Documentation was submitted to Council for consideration in satisfaction of this deferred commencement condition in August 2013. On 26 August 2013, Council advised by letter that the information submitted satisfied the requirements of the deferred commencement condition and that the consent for DA2008/1741 is now operational.

2.2 APPROVED WORKS

The works approved under DA2008/1741 included the partial demolition of existing buildings and construction of an extension to the existing Warringah Mall Shopping Centre buildings. These works also included redevelopment of the Palm Tree car park and modification to the Starfish car park. The scope of the approved works is outlined below:

- Reconfiguration of the existing shopping mall buildings, resulting in approximately an additional 8,000m² of gross lettable floor area and new mall connecting with David Jones.
- Redesign of Myer façade.
- Redevelopment of the 'Palm Tree' car park to accommodate a new multi-deck car park.
- Reconfiguration of the existing 'Starfish' car park to accommodate the new shopping mall expansion, and addition of new express ramps within car park.
- Creation of new rooftop car park above new retail floorspace.
- New landscaping along the Cross Street and Green Street frontages.
- Stormwater works associated with the approved development, including a twin barrelled culvert adjacent to Cross Street and Green Street.
- New external signage for future tenants and building identification signage.
- Associated traffic management works.

This modification application was referred to Council's Urban Designer who provided the following comments regarding the proposed height of the Shade Sail Structure:

"The proposed height is 20 m from ground level (RL10) so the top of the sail structure is about RL 30. That is 2 m over the WDCP 2011 envelope control of RL 28. It is noted that there are higher envelope controls of RL 30 and RL 34.8 nearby so the visual impact of the sail structure will be low given the structure is an open steel truss.

Nevertheless there are concerns for view impact from properties overlooking the roof area from the higher escarpment area. The applicant will need to provide a view impact study if the sail structure exceeds the RL 28 building envelope control."

In response to the Council's urban design comments an updated section plan (*Drawing No. DA 01.5403 Revision B dated 14/11/2014 prepared by Scentre Design and Construction*) was submitted to Council with a maximum Shade Sail Structure height of RL 28.

Based on this updated height (RL 28), which complies with the Warringah DCP 20111 envelope control, Council waived the need for a View Impact Study, but added a condition (Condition no. 30C 'Height of Open Roof Structures') restricting the open air 'garden trellis' glazed canopy over the 'Myer North' section of the centre and the open air shade sail over the existing centre court area to a maximum height of RL 28.

2.3.4 MOD2015/0190

The approval under MOD2015/0190 amended the roof height of the approved shade sail structure over centre court from RL 28.00 to RL 29.50 representing an increase in height of 1.5 metres.

The amendment to the Centre Court Shade Sail structure was undertaken as part of the design development to improve natural light and ventilation within this space, and strengthen the visual relationship between Centre Court and the natural elements, while maintaining weather protection.

The Centre Court Shade Sail structure approved under MOD2015/0190, along with the Myer Court and Myer North roof structures approved under MOD 2014/0230 are the subject of this application.

3 Proposed Modification

3.1 OVERVIEW

This Section 96(1A) modification seeks to amend the development approved under DA2008/1741 (as modified). This application specifically seeks to make the following modifications to the approved development:

- Amendments to the previously approved shade sail structure over centre court to an open air glazed canopy structure
- Amendments to the roof structure over Myer North and Myer Court to match the new roof structure over Centre Court to form a continuous open air glazed canopy.

The following provides a detailed description of and justification for these amendments.

3.2 ROOF STRUCTURE MODIFICATIONS

The proposed amendment to the roof structures is the result of design development and the need for a consistent design approach across the roof structures provided at Warringa Mall over the pedestrian circulation areas associated with Centre Court, Myer North and Myer Court.

The proposed amendments will provide a continuous open air glazed canopy over these circulation spaces enhancing the pedestrian experience and daylight access, while providing adequate weather protection.

Figure 4 to Figure 8 below illustrates the proposed amendments to these approved roof structures. For further detail, refer to the architectural plans at **Appendix A**.

FIGURE 3 – PROPOSED ROOF MODIFICATIONS – PLAN VIEW

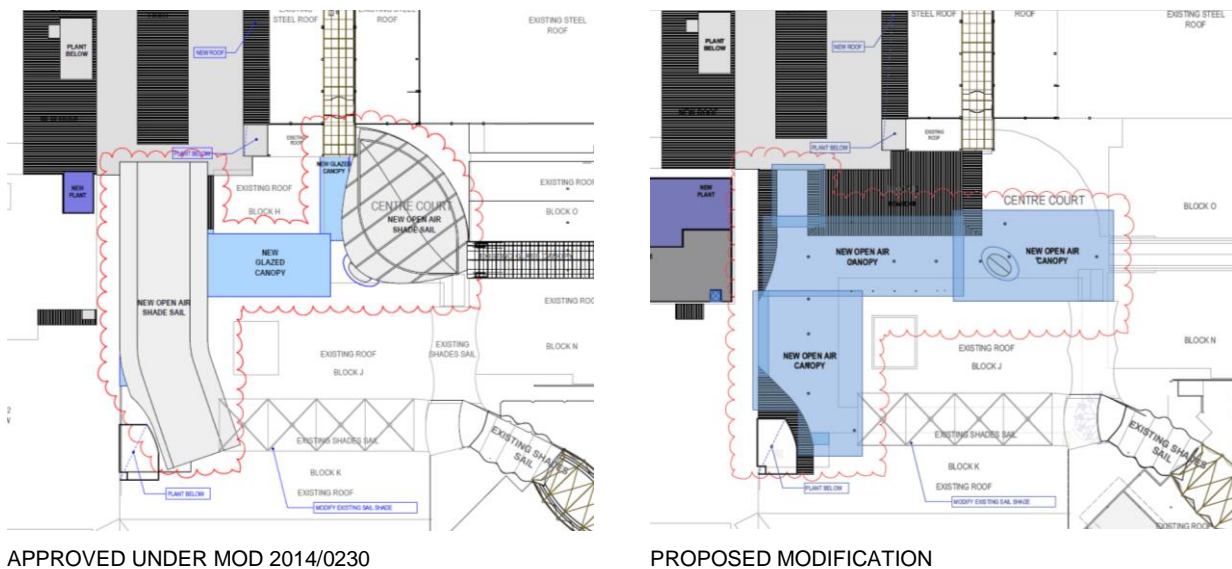
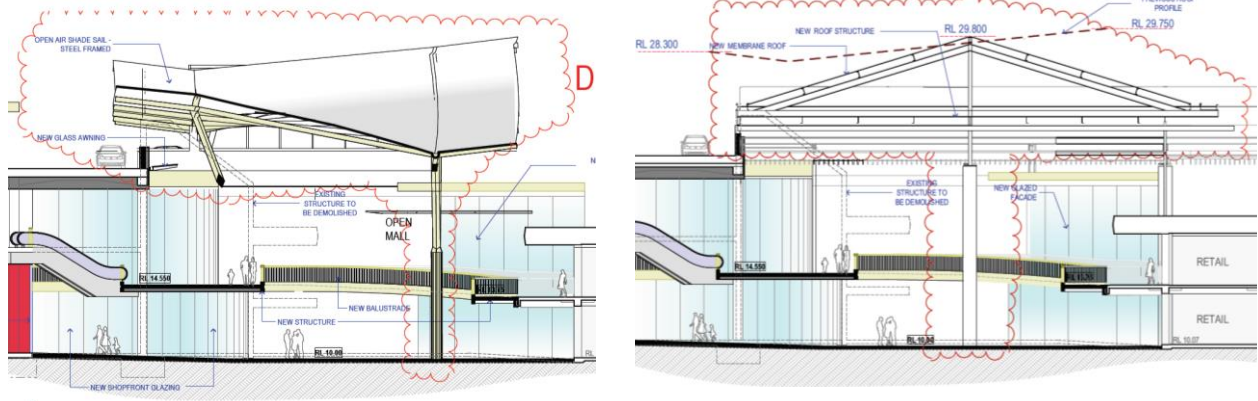


FIGURE 4 – APPROVED AND PROPOSED ROOF STRUCTURE OVER MYER COURT

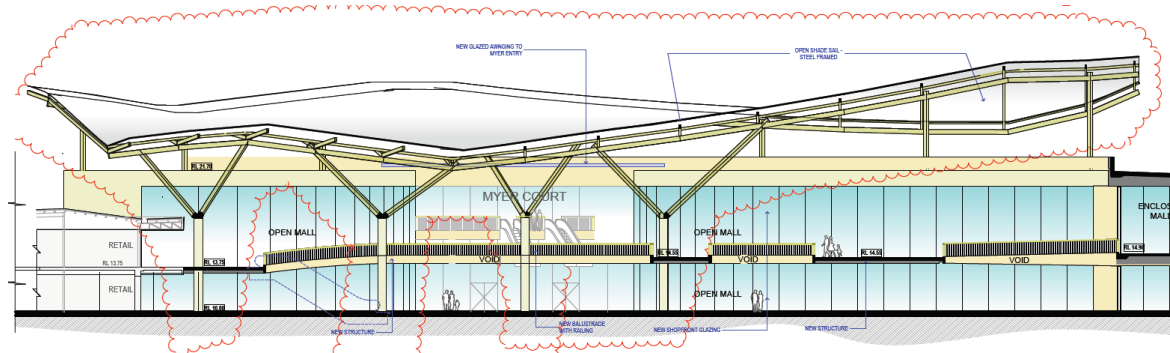


APPROVED UNDER MOD 2014/0230

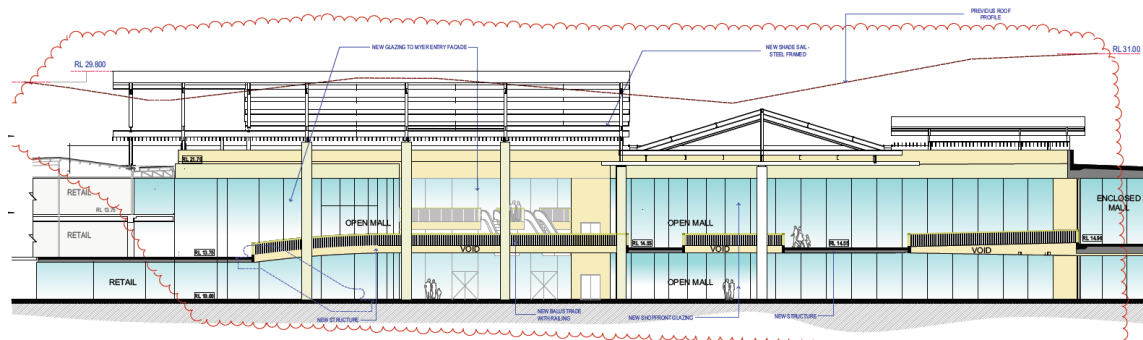
PROPOSED MODIFICATION

As noted in Cross Section B of architectural plan DA 01.5401 rev G at **Appendix A** (excerpt above), the proposed roof structure over Myer Court will be generally within the outline of the approved shade sail structure, except for a minor portion along the ridge of the roof structure at RL 29.80. As demonstrated by the View Impact Study at **Appendix B**, the proposed amendment to the roof structure over Myer Court will have a negligible impact on the views overlooking Warringah Mall from properties located on the higher escarpment areas surrounding the site to the west, north west and south west.

FIGURE 5 – APPROVED AND PROPOSED ROOF STRUCTURE OVER MYER COURT



APPROVED UNDER MOD 2014/0230



PROPOSED MODIFICATION

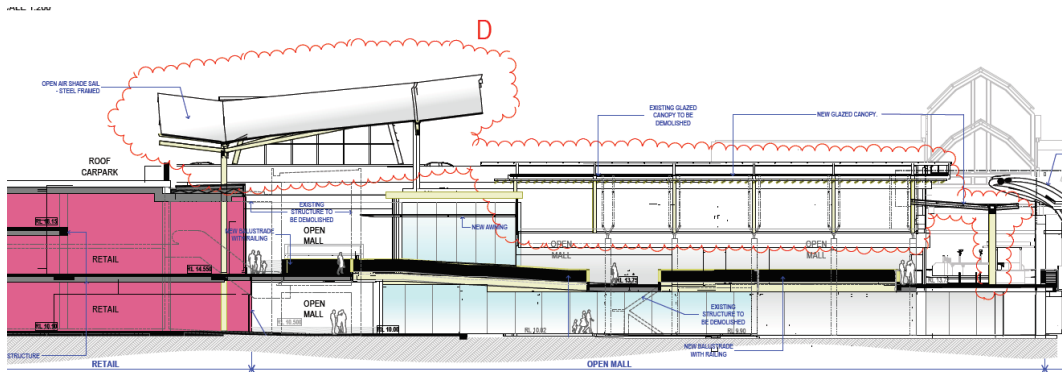
Similarly, as noted in Long Section D of architectural plan DA 01.5402 rev G at **Appendix A** (excerpt above), the proposed roof structure over Myer Court will be generally in keeping with the outline of the approved roof structure under MOD 2014/0230.

The proposed roof structure will achieve a maximum height of RL 29.80, which is less than the approved maximum height of RL 31.00 immediately to the south of Myer Court.

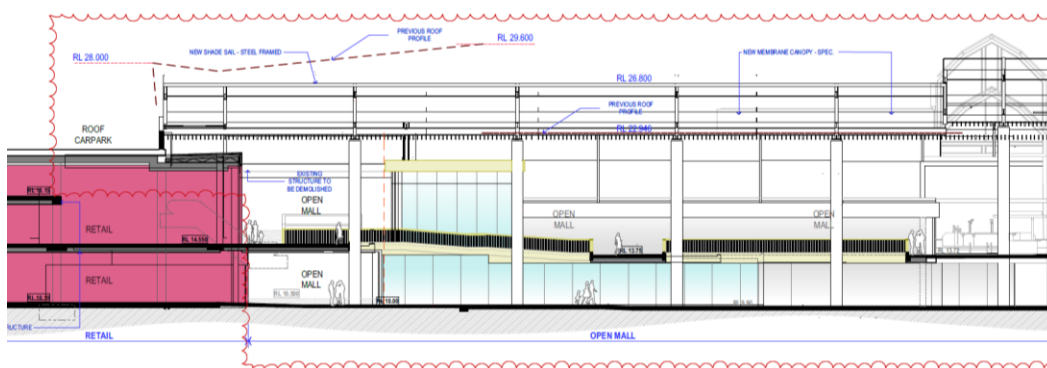
To support the proposed amendment to the roof structure, a View Impact Study has been undertaken and is provided at **Appendix B**. The View Impact Study demonstrates that the proposed roof structure will have negligible impact on the views overlooking Warringah Mall from properties located on the higher escarpment areas surrounding the site to the west, north west and south west. In addition, the proposed modification will replace the approved shade sail structure with an open air glazed canopy structure presenting a lightweight design that is less imposing when viewed from the higher escarpment areas.

The proposed open air glazed canopy structures will also ensure design consistency with Myer North, and enhance the pedestrian experience by improving design daylight access, while providing adequate weather protection.

FIGURE 6 – APPROVED AND PROPOSED ROOF STRUCTURE OVER MYER NORTH



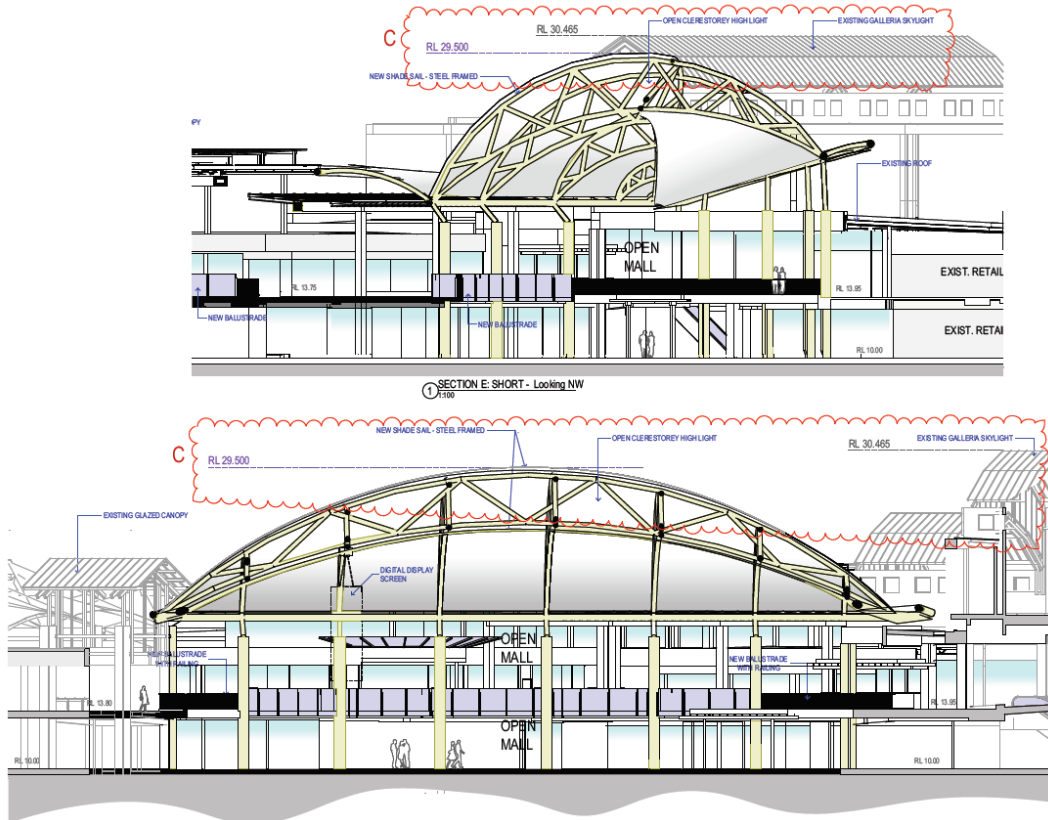
APPROVED UNDER MOD 2014/0230



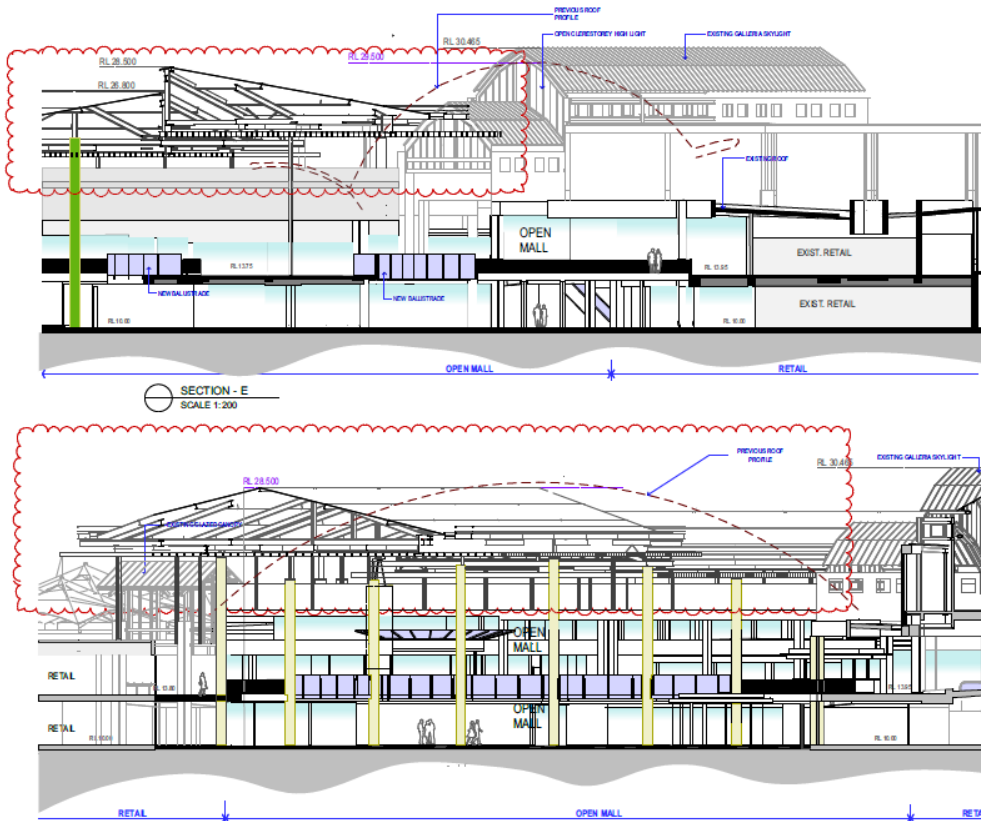
PROPOSED MODIFICATION

As noted in Cross Section C of architectural plan DA 01.5401 rev G at **Appendix A** (excerpt above), it is proposed to replace the approved shade sail structure and glazed canopy over Myer North with a consistent open air glazed canopy. The proposed roof structure over Myer North will be substantially lower than the approved shade sail structure. In addition, the proposed glazed canopy structure over Myer North will achieve a maximum height of RL 26.80, which complies with the WDCP 2011 envelope control of RL 28 applicable to this section of the roof at Warringah Mall.

FIGURE 7 – APPROVED AND PROPOSED ROOF STRUCTURE OVER CENTRE COURT



APPROVED UNDER MOD 2015/0190



PROPOSED MODIFICATION

The proposed modification to the Centre Court roof will involve replacing the approved shade sail structure with a clear glazed canopy structure to be consistent with the roof structures proposed over Myer North and Myer Court.

The approved Shade Sail Structure (MOD 2015/0190) features a maximum height of RL 29.50. The proposed modification will feature a maximum height of RL 28.50 and consist of a lightweight clear glazed canopy structure.

As the configuration of the proposed roof structure is different from the approved Shade Sail structure, a View Impact Study (**Appendix B**) has been undertaken to assess the impact of the modification on views to and across the site. The View Impact Study demonstrates that the proposed modification will have negligible impact on the views overlooking Warringah Mall from properties located on the higher escarpment areas surrounding the site to the west, north west and south west. As with the previously approved Centre Court Shade Sail structure, the views that are impacted by the modification to the Centre Court roof structure will be to other development within Warringah Mall and adjoining commercial buildings.

In summary, the proposed roof structure modifications include:

- **Centre Court** – modification of approved Shade Sail Structure (RL 29.50) with a lightweight clear glazed canopy structure featuring a maximum height of RL 28.50;
- **Myer North** – modification of approved shade sail and glazed canopy with a consistent open air glazed canopy structure featuring a maximum height of RL 26.80 which complies with the WDCP 2011 envelope control of RL 28 applicable to this section of the roof.
- **Myer Court** – modification of shade sail structure to incorporate an open air glazed canopy consistent with Centre Court and Myer North. The proposed structure will be generally in keeping with the outline of the approved roof structure under MOD 2014/0230, and will feature a maximum height of RL 29.80, which is less than the approved maximum height of RL 31.00 immediately to the south of Myer Court. As discussed above, a View Impact Study has been provided at **Appendix B** to support this amendment. This View Impact Study demonstrates that proposed roof structure will have negligible impact on the views overlooking Warringah Mall from properties located on the higher escarpment areas surrounding the site to the west, north west and south west.

3.3 AMENDMENTS TO CONDITIONS OF CONSENT

- Condition 1B – ‘*Modification of Consent – Approved Plans and supporting Documentation*’ of DA2008/1741 (modified as part of MOD2014/0230 and MOD 2015/0190) will need to be modified to refer to the amended architectural plans provided at **Appendix A**.
- Condition 30C of DA2008/1741 (added as part of MOD2014/0230 and amended as part of MOD 2015/0190) provides a maximum height of RL 28.00 for the height of open roof structures. It is proposed to amend Condition 30C to reflect the proposed amendment to the height of the Myer Court roof structure as shown in red below:

“30C. Height of Open Roof Structures

The open air 'garden trellis' glazed canopy located over the 'Myer North and Myer Court' section of the centre is restricted to a maximum height of ~~RL 28.00~~ RL 29.80.

4 Section 96(1A) Assessment

The proposed modification is sought under Section 96(1A) of the *Environmental Planning and Assessment Act 1979*. Under Section 96 (1A) the consent authority may approve an application to modify a development consent where it is satisfied that the proposed modification will satisfy the four elements of Section 96(1A), which the proposed modification is assessed against below.

4.1 MINIMAL ENVIRONMENTAL IMPACT

In accordance with Section 96(1A)(a), the proposed development is considered to be of minimal environmental impact because:

- As demonstrated by the View Impact Study at **Appendix B**, the proposed modification of the roof structures over Centre Court, Myer Court and Myer North will have negligible impact on the views overlooking Warringah Mall from properties located on the higher escarpment areas surrounding the site to the west, north west and south west.
- The views that are impacted by the proposed amendments to the roof structures are minor and would be to other development within Warringah Mall and adjoining commercial buildings.

4.2 SUBSTANTIALLY THE SAME DEVELOPMENT

In accordance with Section 96(1A)(b), the proposed development is considered substantially the same as that approved with consideration to the following:

- The proposed modifications result in the overall scale of the Stage 1 development remaining unchanged, except for a minor increase in the height of the roof structure over Myer Court which represents a small percentage of the overall roof structure of the shopping centre development. Similarly, the amendment to the roof structure over Centre Court will change the configuration of the roof in this location. However, as demonstrated by the View Impact Study at **Appendix B**, the proposed amendments to the roof structures will not have any additional adverse impacts on the views to and across the site.
- The proposal does not increase the GLA of the centre or result in any amendments to stormwater augmentation or car parking spaces.
- The proposed amendments will provide a continuous open air glazed canopy over the circulation spaces associated with Centre Court, Myer North and Myer Court, enhancing the pedestrian experience and daylight access within the shopping centre, while maintaining adequate weather protection for visitors to Warringah Mall.

4.3 NOTIFICATION PROCESS

Under Part A.7 of the *Warringah Development Control Plan 2011*, Council have discretion to determine whether notification of applications made under Section 96(1A) is required. Given the minor nature of the proposed modification which has minimal impact on local residents or land owners as confirmed by the View Impact Study, it is considered that notification is not necessary in this instance.

4.4 CONSIDERATION OF SUBMISSIONS

In accordance with Section 96(1A)(d) of the Act, the applicant will consider and respond to any relevant submissions made concerning the proposed modification within the period prescribed by the *Warringah Development Control Plan 2011*.

5 Section 79C Assessment

5.1 ENVIRONMENTAL PLANNING INSTRUMENT

The *Warringah Local Environmental Plan 2011* (WLEP 2011) was gazetted on 9 December 2011. Accordingly the WLEP 2011 was not in force at the time of the original consent for the Stage 1 DA.

Under the WLEP 2011, the Warringah Mall site is zoned B3 Commercial Core, which includes the following as two of the four zone objectives:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To recognise and support the role of Warringah Mall as a retail centre of sub-regional significance.*

The proposed modification is relatively minor in nature and will be in keeping with the proposed Stage 1 works which promote the status of Warringah Mall as a retail centre of sub-regional significance by improving the design of the centre to respond to more contemporary retailing trends including weather protection and provision of entertainment spaces.

The proposed amendments will provide a continuous open air glazed canopy over the circulation spaces associated with Centre Court, Myer North and Myer Court, enhancing the pedestrian experience and daylight access within the shopping centre, while maintaining adequate weather protection for visitors to Warringah Mall.

5.2 DEVELOPMENT CONTROL PLAN

The *Warringah Development Control Plan 2011* (WDCP 2011) was adopted by Council in 2011 concurrently with the gazettal of the WLEP 2011.

An assessment of the proposed amendments has been undertaken against the relevant *WDCP 2011* controls and is contained in **Appendix C**. The assessment indicates that the proposed amendments are largely consistent with the objectives and the intent of the WDCP 2011 provisions.

The proposed amendment to the roof structures will result in the following maximum heights:

- **Centre Court** – RL 28.50
- **Myer North** – RL 26.80
- **Myer Court** – RL 29.80

The WDCP 2011 envelope control of RL 28.00 applies to these sections of Warringah Mall.

In the case of Centre Court, a maximum height of RL 29.50 was previously approved under MOD 2015/0190, and this modification application will represent a reduction from the maximum approved height.

The proposed roof structure over Myer North will comply with the applicable WDCP 2011 envelope control of RL 28.00.

The proposed roof structure over Myer Court will feature a maximum height of RL 29.80 which represents a minor increase over the envelope of 1.8 metres over a limited section of the overall shopping centre roof structure. This increase is considered acceptable in the context of the higher envelope of RL 31.00 previously approved to the immediate south as shown in Section D of architectural plan DA 01.5402 rev G at **Appendix A**.

In addition, the amended roof structure will feature a lightweight open air glazed canopy structure in the place of the currently approved heavier shade sail structure. The View Impact Study (at **Appendix B**)

further supports the proposed roof structure amendments by demonstrating that the proposed amendments will not result in any adverse view impacts from the surrounding properties.

While the proposed modification to the roof structures will exceed the DCP envelope to a minor degree, the proposed modification represents a high level of consistency with the aims and provisions of the DCP including:

- A high standard of architectural design excellence through quality, durable and robust materials with a contemporary design.
- High levels of pedestrian comfort in a significant public space of the centre by protecting the space from adverse weather to increase amenity and functionality all year round.

5.3 LIKELY IMPACTS

5.3.1 BUILT FORM AND URBAN DESIGN

The proposed modifications of roof structures over Centre Court, Myer North and Myer Court will improve the natural light and air circulation within these key pedestrian circulation spaces by increasing the open edges of the roof structures and replacing shade sail structure with clear glazed canopies..

The proposed roof amendments will ensure a consistent design and feel to the pedestrian circulation space connecting Centre Court and Myer Court via Myer North. The proposal will enhance daylight access into the shopping centre, while maintaining weather protection to provide entertainment areas and activating these spaces throughout the year.

5.3.2 BCA AND FIRE SAFETY

Appropriate BCA and fire safety arrangements will be maintained and there are no additional impacts associated with this application.

5.3.3 SUITABILITY OF THE SITE

The proposed modification does not change the suitability of the site for the approved development. The site remains suitable for the proposed use, inclusive of the modifications sought by this application.

5.3.4 PUBLIC INTEREST

The proposed modification is consistent with the approved development and allows for the design of the centre to respond to more contemporary retailing trends consistent with its status as a retail centre of sub-regional significance.

The proposed design modifications provide more function entertainment and pedestrian circulation spaces with increased amenity in terms of natural light and ventilation, while strengthening the visual relationship between the internal spaces of the shopping centre and natural elements, reflecting a Northern Beaches lifestyle vernacular through an improved sense of open air.

In addition, the proposed modification will have a negligible impact on the views overlooking Warringah Mall from properties located on the higher escarpment areas surrounding the site to the west, north west and south west.

6 Conclusions

Based on the assessment outlined above and the support documentation attached in **Appendix A to C**, it is concluded that the proposal to modify Conditions 1B and 30C of DA2008/1741 may be approved under the provisions of section 96(1A) of the *Environmental Planning and Assessment Act 1979*.

The amended design will enhance the functionality and amenity of the entertainment and pedestrian circulation spaces associated with Centre Court, Myer North, and Myer Court. The updated open air glazed canopy structures will improve natural light and ventilation these spaces, and strengthen the visual relationship to the natural elements, while maintaining weather protection to provide entertainment areas and activate these spaces throughout the year.

A View Impact Study has been prepared to assess the impact of the proposed modifications on views from surrounding properties. The study found that the modification will have negligible impact on the views overlooking Warringah Mall from properties located on the higher escarpment areas surrounding the site to the west, north west and south west.

The proposed modification will not introduce any adverse social, economic or environmental impacts. Accordingly, the proposed modification is reasonable and will result in substantially the same development as originally approved. Therefore this request to modify the development consent DA2008/1741 (as modified) should be supported and approved by Warringah Council.

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