

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0191
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Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 100 DP 1015283 , 145 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Modification of Development Consent DA2008/1741 granted for Partial demolition of existing buildings, construction of an extension to the Warringah Mall Shopping Centre including two levels of retail floorspace, a multi-level car park and associated stormwater works.
Zoning:	LEP - Land zoned B3 Commercial Core LEP - Land zoned IN1 General Industrial
Development Permissible:	Yes - Zone B3 Commercial Core Yes - Zone IN1 General Industrial
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	AMP Warringah Mall Pty Ltd Westfield Management Ltd
Applicant:	Urbis JHD Pty Ltd

Application lodged:	25/08/2015
Application Type:	Local
State Reporting Category:	Other
Notified:	Not Notified
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

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

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 is described as Lot 100, DP 1015283, 145 Old Pittwater Road, Brookvale. The site is occupied by the Warringah Mall Shopping Centre which is commonly known as 'Warringah Mall'.</p> <p>The site has an area of 170,600m². It is bounded to the north by Cross Street, to the south by Old Pittwater Road and to the East by Condamine Street / Pittwater Road. The principal street frontage is to Condamine/ Pittwater Road and secondary street frontages are to Old Pittwater Road and Cross Street.</p> <p>Warringah Mall has a total floor area of 127,838m² with a provision of 103,400m² of enclosed retail floor space provided mainly over two levels with some areas three levels.</p> <p>Warringah Mall accommodates Myer and David Jones department stores, Big W and Target discount department stores, Woolworths and Coles supermarkets, 15 mini-major tenants (floor space greater than 400m²) and 239 retail speciality shops.</p> <p>Warringah Mall includes an entertainment precinct incorporating a nine screen Hoyts Cinema Complex as well as the Body Shape Female Fitness Centre and some other non-retail facilities.</p> <p>The site is extensively built upon with bituminised and concrete hard surface areas located around the perimeter of the building to facilitate car parking and traffic flow. It has a total of 4,468 car spaces with 2,998 open-air spaces and 1,470 under cover spaces.</p> <p>Warringah Mall provides a mix of indoor and outdoor spaces that are suitable for the surrounding coastal community and setting.</p> <p>Topographically, the site has a gradual natural slope that falls from the north-west to the south-east of the site.</p>

Vehicle access to the site is currently available at various locations along Pittwater Road, Old Pittwater Road and Cross Street.

Map:



SITE HISTORY

Modification Application No. 2014/0079

This application sought to modify Development Application No. 2008/1741. The modifications related to internal reconfigurations of the approved expanded retail floor area, alterations to the Palm Tree and Starfish Car parks, landscaping, site works and extension of construction hours.

The application was approved by the Warringah Development Assessment Panel (WDAP) 15 September 2014.

Development Application No. 2008/1741

This application sought consent for the partial demolition of existing buildings and construction of an extension to the Warringah Mall Shopping Centre, resulting in the provision of an additional 8,000m² Gross Leasable Floor Area (GLFA). Specifically, the application included the partial demolition of existing buildings and construction of an extension to Warringah Mall Shopping Centre, including 2 levels of retail and a multi level carpark located on the corner of Green Street and Cross Street.

This application was granted Deferred Commencement Approval by the Warringah Development Assessment Panel (WDAP) on 28 April 2010. The Deferred Commencement Conditions were satisfied and the consent became operative on 23 August 2013.

Development Application No. 2008/1742

Application was lodged in-conjunction with DA2008/1741 and included the construction of drainage works through the Warringah Mall Shopping Centre site. The proposed drainage works included the construction of culverts under Condamine Street and works within the Warringah Golf Club and drainage works around the western side of the centre including new inlets and pipes. Existing landscaping is to be removed along the Frontage to Cross Street.

This application was granted Deferred Commencement Approval by Council's Applications Determination Panel (ADP) on 16 May 2012.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify Development Consent No. 2008/1741 granted for the partial demolition of existing buildings and the construction of an extension to the Warringah Mall Shopping Centre, including two (2) levels of retail and a multi-level car park.

Specifically the modifications involve the removal of 6 street trees along the Cross Street frontage of the site previously condition to be retained. The trees are to be removed as a result of their location impacting upon the erection hoardings for construction work. The proposal includes the replanting of these trees at the completion of work.

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 A.

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.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – 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&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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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</p>

Section 79C 'Matters for Consideration'	Comments
	<p>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 clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&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&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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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.
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 was not notified.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The Arborist's Report provided with the application is noted and the findings concurred with. No objection to approval subject to conditions as recommended.</p> <p>No objections to the proposed amendments to Conditions 2 and 30 in the SEE, however the proposed new condition regarding tree replacement has been amended in accordance with Council requirements and specific tree removal condition added (in Assess).</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.

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

There is no change to the approved height of the buildings.

Compliance Assessment

Clause	Compliance with Requirements
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

There is no change to the approved built form of the new building works.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E10 Landslip Risk	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

Warringah Section 94A Development Contribution Plan

Section 94 contributions were levied on the Development 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 approval Modification Application No. Mod2015/0191 for Modification of Development Consent DA2008/1741 granted for Partial demolition of existing buildings, construction of an extension to the Warringah Mall Shopping Centre including two levels of retail floorspace, a multi-level car park and associated stormwater works. on land at Lot 100 DP 1015283,145 Old Pittwater Road, BROOKVALE, subject to the conditions printed below:

A. Modify Condition No. 30 Tree Protection to read as follows:

30. Tree Protection

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Construction Certificate Plans

The Construction Certificate plans must include reference to:

- Trees to be removed coloured or shaded in the colour red
- Trees to be retained coloured or shaded in the colour green
- Trees to be pruned coloured or shaded in the colour blue
- Trees to be transplanted coloured or shaded in the colour yellow

(b) Existing trees which must be retained

Approval is NOT granted for the removal of the following trees:

Trees indicated as retained on Landscape Plan - Endorsed with Council's Stamp		
Drawing Number	Dated	Prepared By

Reason: To ensure the protection of trees to be retained.

B. Add Condition No. 30E Specific Tree Removal to read as follows:

30.E Specific Tree Removal

a). Existing street trees that are approved for removal

The following trees are approved for removal in accordance with the Arboricultural Assessment Addendum Report at Westfield Warringah Stormwater Augmentation Cnr Cross and Green Streets prepared by Jacksons Nature Works dated 19 August 2015

Species	Tree Number
<i>Backhousia citriodora</i>	33
<i>Backhousia citriodora</i>	37
<i>Lophostemon confertus</i>	38
<i>Lophostemon confertus</i>	42
<i>Backhousia citriodora</i>	44
<i>Backhousia citriodora</i>	47

b). Street trees approved for removal are to be removed by a Council approved tree contractor.

c). The list of currently approved tree contractors is to be obtained from Council's Public Trees Section prior to undertaking removal works.

d). The location and protection of all services and public safety during the works is the responsibility of the owner/applicant.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site and public liability. (DACLAC01)

C. Add Condition No. 30F Required Planting to read as follows:

30F. Required Planting

1. The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Minimum Pot Size
8	<i>Elaeocarpus eumundii</i>	Cross Street road reserve, as indicated on Landscape Plan Sheet 1 of 2 Ground Level Palm Tree Carpark Dwg	100 litre

2. Replacement trees are to satisfy the following:

- a) Replacement trees are to be grown in accordance with the Natspec publication Specifying Trees - a guide to assessment of tree quality
- b) All replacement trees must be maintained until they reach six (6) metres in height;
- c) If any replacement tree dies prior to reaching six (6) metres in height that tree is to be replaced; and
- d) The replacement trees shall be planted within three (3) months of the removal of the Class B Hoarding along Cross Street associated with the stormwater augmentation works under DA2008/1742.
- e) Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

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

Luke Perry, Planner

The application is determined under the delegated authority of:

Phil Lane, Development Assessment Manager













ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2015/251588	Notice of Determination	13/12/2010
 2015/251578	Report - Arboricultural Assessment Addendum	21/08/2015
 2015/251605	Letter - Tree Removal	25/08/2015
 MOD2015/0191	Warringah Mall 145 Old Pittwater Road BROOKVALE NSW 2100 - Section 96 Modifications - Section 96 (1a) Minor Environmental Impact	25/08/2015
 2015/250629	DA Acknowledgement Letter - Urbis JHD Pty Ltd	25/08/2015
 2015/251564	Plans - Landscape	26/08/2015
 2015/251309	Modification Application Form	26/08/2015
 2015/251318	Applicant Details	26/08/2015
 2015/251320	delete - Plan - Notification	26/08/2015
 2015/251325	delete - Plans - View Impact Study	26/08/2015
 2015/254246	File Cover	28/08/2015
 2015/254747	Landscape Referral Response	28/08/2015