

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/1082
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 100 DP 1015283, 145 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Additional Seating to an existing restaurant/cafe (K109- Rozzis Italian Canteen)
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:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	AMP Warringah Mall Pty Ltd Scentre Management Ltd
Applicant:	Milestone Aust Pty Ltd

Application lodged:	17/10/2016
Application Type:	
State Reporting Category:	Other
Notified:	04/11/2016 to 21/11/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Approval

Estimated Cost of Works:	\$ 7,820.00
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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.

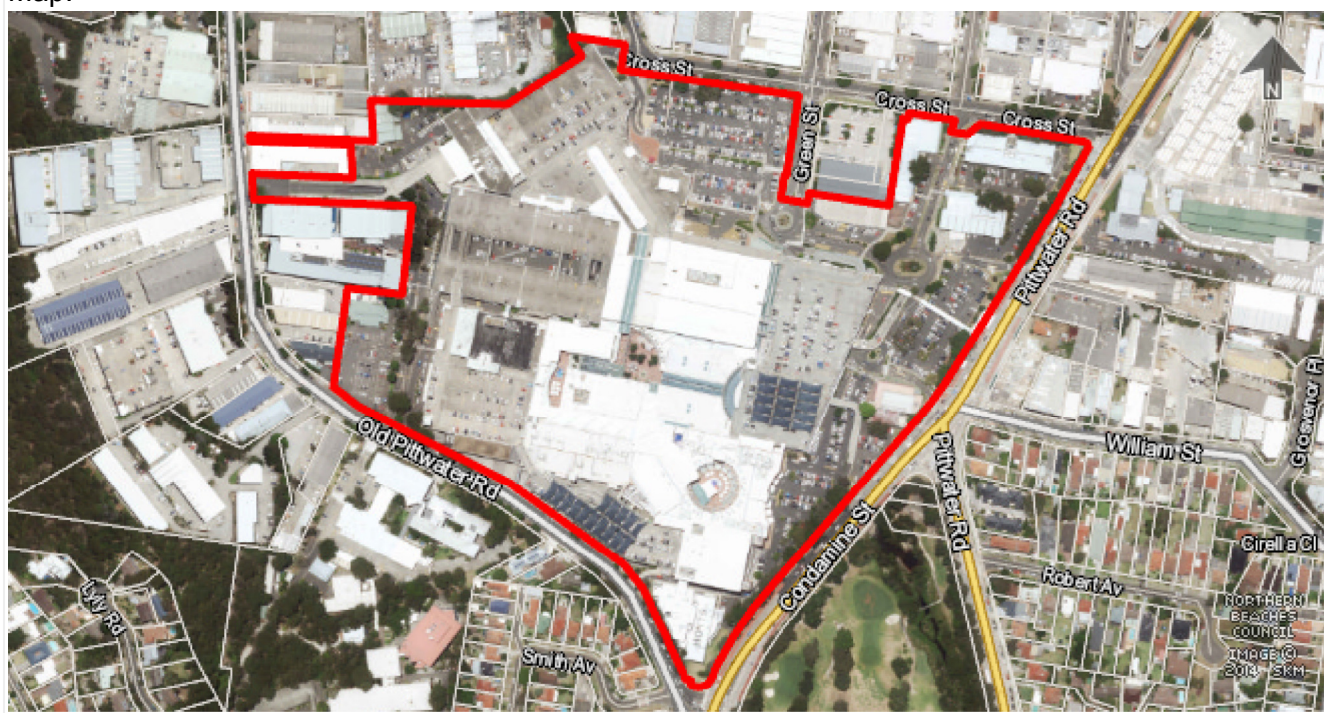
SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - G4 Warringah Mall

SITE DESCRIPTION

Property Description:	Lot 100 DP 1015283 , 145 Old Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site is identified as Kiosk K109, known as Rozzi's Italian Canteen on the ground floor of the Westfield Warringah Mall shopping centre.</p> <p>The subject tenancy has been approved and constructed under a Complying Development Certificate - details can be found in the Site History item of this report.</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 subject tenancy is a newly constructed premise within the recent addition to the Warringah Mall shopping centre.

PROPOSED DEVELOPMENT IN DETAIL

This development application is for the installation of seating for the premise known as Rozzi's Italian Canteen.

Currently the premise has approval for 50 seats under CDC, and this application is proposing an additional 59 seats equating to a total of 109 seats.

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.
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>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 clause is not relevant to this application.</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</p>

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Section 79C 'Matters for Consideration'	Comments
	<p>authority to consider insurance requirements under the Home Building Act 1989. 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 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.
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	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.
Health and Protection (Food Premises, Skin Pen.)	Proposal is only for additional 59 seats. Complex has adequate toilets should a liquor license be required.

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Internal Referral Body	Comments
	No Objections No additional conditions
Landscape Officer	No objections and no conditions recommended.
Natural Environment (Flood)	The proposed development is not considered to increase flood risk. No flood related development controls.
Natural Environment (Riparian Lands/Creeks)	The proposed development will not impact on Waterway and Riparian Lands. No objection to approval with no conditions recommended.
Traffic Engineer	No objection is raised on the proposal on traffic grounds subject to the responsible Development Assessment Officer approval.

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 (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 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

This development application is for an increase of seating from 50 to 59 and therefore, no changes are proposed to the existing principal development standards.

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

This application is for an increase in seating from 50 to 59 persons and therefore no changes are proposed to the existing built form controls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	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.

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:

This development application is for an increase of seating to an approved food and drink premise and as such, as assessment against all objectives and requirements relevant to the site is not required; however it is considered that the increase in seating thus patronage contributes to the vibrancy and activation of the shopping centre courtyards and as such, is responsive to the surrounding premises and enables the activation as envisioned through the urban design phase of the Warringah Mall redevelopment.

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.

Built Form	
Design Quality & Excellence	
<p>Objectives</p> <ul style="list-style-type: none"> • <i>To ensure that new development makes a positive contribution to the streetscape and public domain.</i> • <i>To ensure a high standard of architectural design.</i> • <i>To achieve high quality urban design internally and externally and high levels of pedestrian comfort in the public spaces of the centre.</i> • <i>To emphasise key nodes and entry points to create a sense of arrival.</i> • <i>To encourage the use of high quality, durable and robust materials.</i> • <i>To ensure the design response reflects the Northern Beaches vernacular/lifestyle.</i> <p><u>Comment:</u></p> <p>The built form of the premise is not changing as a result of this application.</p>	
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.	N/A
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

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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.	N/A
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

Amenity

Safety and Security

Objectives

- *To provide a safe environment for users of Warringah Mall.*
- *To minimise opportunities for crime.*
- *To encourage the consideration and application of crime prevention through environmental design (CPTED) principles when designing and siting buildings and surrounding spaces and access ways.*

Comment:

The increase in seating at the premise allows for a greater number of patrons, thus enhancing the safety and security of the surrounding area through passive and casual surveillance.

Requirements	Complies
33. Development is to be designed to incorporate and/or enhance opportunities for effective natural surveillance by providing clear sight lines between public and private places, installation of effective lighting particularly in public spaces and carparks, and the appropriate landscaping of public areas.	Yes
34. The need for technical surveillance which is achieved through mechanical/electronic measures such as the provision of closed circuit television (CCTV), help points and mirrored building panels, is to be addressed in future developments.	Yes
35. New development is to be designed to remove any opportunities for the concealment of crime.	Yes
36. The incorporation of crime prevention measures in the design of buildings and spaces is not to detract from the quality of the urban design of the development and the streetscape.	Yes
37. The development is to be consistent with CPTED principles. A report providing an assessment of the proposal against CPTED principles is to be submitted with all development applications for additions to Warringah Mall.	N/A
38. A draft Operational Plan of Management that outlines the potential measures to be implemented to ensure the safety and security of the	N/A

public is to be submitted with any development application involving a major expansion of Warringah Mall.

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

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 DA2016/1082 for Additional Seating to an existing restaurant/cafe (K109- Rozzis Italian Canteen) 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
ID-100 Rev. P3	4 October 2016	Mim Design

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)

2. **Occupancy**

Nothing in this consent shall authorise the use of the subject 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)

FEES / CHARGES / CONTRIBUTIONS

3. **Security Bond**

A bond (determined from cost of works) of \$1,000 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.

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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).

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

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


4. Seating

The cafe is to have no more than 109 seats for patronage at any one time.

Reason: To ensure that the amenity of surrounding premises is maintained. (DACPLGOG1)

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



Adam Mitchell, Planner







The application is determined under the delegated authority of:



Rodney Piggott, Development Assessment Manager

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ATTACHMENT C

Reference Number	Document	Date
 2016/345078	DA Fee Quote	12/10/2016
 2016/345083	Plans - Master Set	14/10/2016
 2016/345081	Report - Statement of Environmental Effects	14/10/2016
 2016/345082	Report - Waste Management	14/10/2016
 DA2016/1082	Warringah Mall 145 Old Pittwater Road BROOKVALE NSW 2100 - Development Application - Alterations and Additions	17/10/2016
 2016/340833	DA Acknowledgement Letter - Milestone Aust Pty Ltd	17/10/2016
 2016/345079	Builders Quote	20/10/2016
 2016/345080	Plans - Notification	20/10/2016
 2016/345069	Development Application Form	20/10/2016
 2016/345076	Applicant Details	20/10/2016
 2016/346415	Health and Protection (Food Premises, Skin Pen.) - Assessment Referral - DA2016/1082 - 145 Old Pittwater Road BROOKVALE NSW 2100	21/10/2016
 2016/346420	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2016/1082 - 145 Old Pittwater Road BROOKVALE NSW 2100 - Drew	21/10/2016
 2016/351281	Natural Environment Referral Response - Riparian	26/10/2016
 2016/352812	Natural Environment Referral Response - Flood	27/10/2016
 2016/361587	notification letters - DA	04/11/2016
 2016/361595	notification map	04/11/2016
 2016/363745	Environmental Health and Protection Referral Response - commercial use	07/11/2016
 2016/364189	Seating clarification	08/11/2016
 2016/383130	Building Assessment Referral Response	23/11/2016
 2016/385240	Landscape Referral Response	25/11/2016
 2016/397036	Traffic Engineer Referral Response	30/11/2016