

7 June 2022

Mr Ray Brownlee
Chief Executive Officer
Northern Beaches Council
PO Box 82
Manly NSW 1655

Attention: Maxwell Duncan, Acting Principal Planner

Dear Mr Brownlee

RE: DA2021/2116 - SECTION 4.55(2) MODIFICATION APPLICATION TO REVISE DESIGN OF APPROVED BUILDING AND AMENDMENT OF CAR PARKING ALLOCATION SHOP 6CC2, 145 OLD PITTWATER ROAD, BROOKVALE (LOT 103 DP 1247294)

We refer to Development Consent No. DA2021/2116 approved by Northern Beaches Council (Council) on 31 January 2022 for *"Use of premises as a recreation facility (indoor), alterations and additions and signage"*. Milestone (AUST) Pty Limited has prepared this Statement of Modification on behalf of the lessee and operator of the subject building, Aqua Culture Swim Academy Pty Ltd (Aqua Culture Swim), to support a Section 4.55(2) Modification Application seeking revision to the design of the approved building and an amendment to Condition 31 which requires the exclusive allocation of car parking on the site. The site is located at No. 145 Old Pittwater Road, Brookvale (Lot 103 DP 1247294) (subject site).

This Statement of Modification makes reference to the following documentation submitted as part of this Section 4.55(2) Modification Application:

- Landowner's consent to lodge the Section 4.55(2) Application with Council (including ASIC Company Extract);
- Section 4.55 Architectural Plans prepared by Quattro Architecture dated 29 April 2022, including:
 - Cover Sheet, Drawing No. S4.55-A-000, Revision B.
 - Ground Level Plan, Drawing No. S4.55-A-100, Revision B.
 - Level 1 Plan, Drawing No. S4.55-A-101, Revision B.
 - Roof Plan, Drawing No. S4.55-A-102, Revision B.
 - Building Elevations, Drawing No. S4.55-A-200, Revision B.
 - Building Sections, Drawing No. S4.55-A-250, Revision B.
- Addendum Access Letter prepared by Accessed dated 12 May 2022.
- Addendum Landscape Plan, Drawing No. L-01, Revision D prepared by Space Landscape Designs Pty Ltd dated 18 May 2022.
- Addendum Traffic and Parking Assessment Letter prepared by Varga Traffic Planning Pty Ltd dated 10 May 2022.
- Comment from Varga Traffic Planning Pty Ltd regarding Condition No. 31 dated 23 May 2022.
- Addendum Statement from McCarthy Consulting Group NSW Pty Ltd (Certifying Authority) dated 6 June 2022.
- This Statement of Modification prepared by Milestone.

This Statement of Modification identifies the site and its context, describes the proposed modification and provides an assessment of the matters for consideration contained in Section 4.15(1) of the Environmental Planning and Assessment Act 1979 (the Act), as amended.

STATEMENT OF MODIFICATION

1. SITE DESCRIPTION AND CONTEXT

The site is located at No. 145 Old Pittwater Road, Brookvale and is situated within a single lot legally described as Lot 103 DP 1247294. The larger development site is irregular in shape and is 17.008ha. The subject site is located in the northern part of the Westfield Shopping Centre located at Warringah Mall. The floor area of the existing building on the site is 552.06m² (to be altered as a result of Development Consent No.

DA2021/2116 and this Modification Application) and is situated with an overall leasable area of 1,561m² (**Figure 1**).

The subject site accommodates a warehouse building comprised of a steel framed structure with Colorbond cladding. The site is identified as Shop 6CC2 in the Westfield Shopping Centre and has received approval to be used as an indoor recreation facility.

The site contains 53 car parking spaces in association with the Westfield Shopping Centre and includes 4 accessible car parking spaces to the south-west, south and east of the subject site. Primary access to the site is achieved via Old Pittwater Road through a boom gate entry point.

The site is not identified as a heritage item nor is it located within a heritage conservation area pursuant to Schedule 5 of the Warringah Local Environmental Plan 2011 (LEP 2011).

The site is located within an established commercial and industrial area of Brookvale on land within the B3 Commercial Core Zone under LEP 2011 and is adjacent to industrial land uses to the north and west within the IN1 General Industrial Zone. The site also is approximately 500m to the north-east of residential land uses within Allambie Heights in the R2 Low Density Residential Zone.

The site is located on land in relation to the Westfield Warringah Mall, a partially enclosed shopping centre that has operated since 4 April 1963 and is one of the largest retail centres in Metropolitan Sydney. The shopping centre provides open-air and undercover multi-storey car parking. The site is adjoined by an existing concrete block warehouse to the west and a bulk car storage yard to the north. Vehicle access to the Warringah Mall is via Old Pittwater Road, Cross Street and Pittwater Road and access to the site is via Old Pittwater Road.

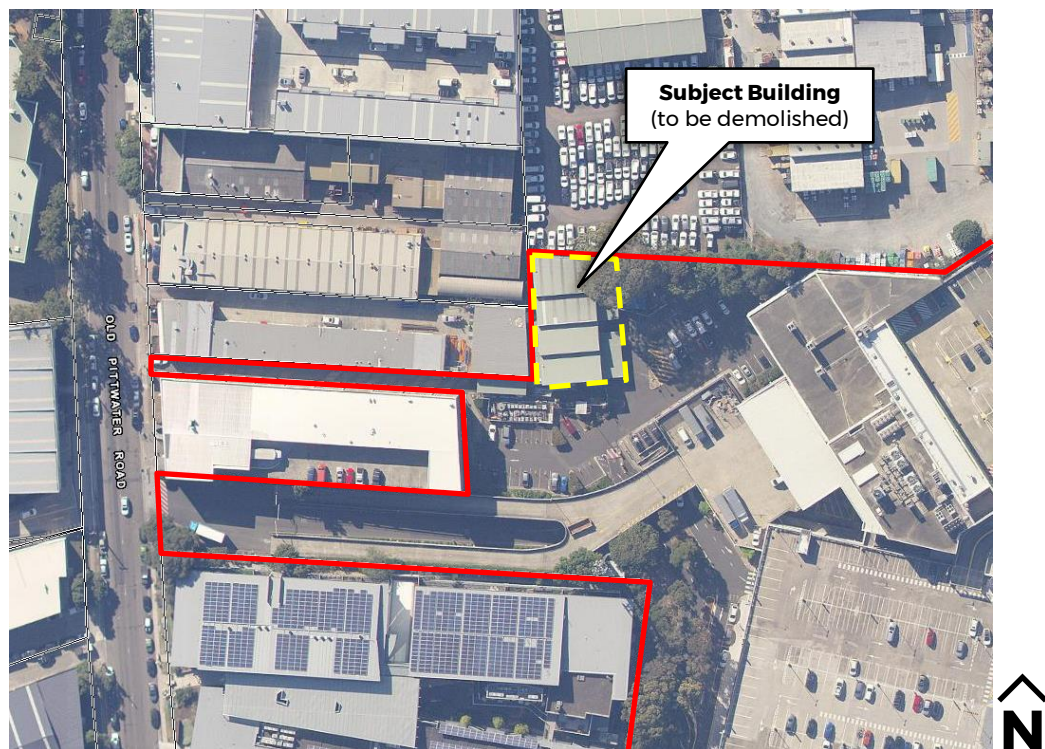


Figure 1: Site Aerial Location Map
Source: SIX Maps 2022

1.1 Development Approval History

A summary of relevant approval history from Council's records for the site in relation to the modified development is set out below:

Tree Permit No. TA2021/0690 was approved by Northern Beaches Council on 5 October 2021 for "Tree Removal (3 tree)." This includes the removal of a tallowwood tree (*Eucalyptus microcorys*), a spotted gum tree

(*Corymbia citriodora*) and a swamp mahogany tree (*Eucalyptus robusta*). Replacement trees will be planted on the Warringah Mall site in accordance with an Offset Strategy provided to Council to ensure the preservation of the landscape character of the locality.

Development Consent No. DA2021/2116 was approved by Northern Beaches Council on 31 January 2022 for "Use of premises as a recreation facility (indoor), alterations and additions and signage". This Section 4.55(2) Application seeks to modify this development consent by revising the design of the approved building to accommodate existing sewer infrastructure and internal ducting as well as an amendment to the exclusive allocation of car parking on the site under Condition No. 31.

There have been no further approvals for the site.

2. PROPOSED MODIFICATION

This Section 4.55(2) Modification Application seeks approval to amend Development Consent No. DA2021/2116 to revise the design of the approved building to accommodate existing sewer infrastructure and internal ducting as well as seek an amendment to the exclusive allocation of car parking on the site under Condition No. 31. This includes the following changes captured on the Section 4.55 Architectural Plans prepared by Quattro Architecture dated 29 April 2022:

- Removal of pool deck seats and storage on the western side of the Ground Floor to accommodate the existing sewer position.
- Revision to the layout of the approved reception area on the Ground Floor.
- Revision of the stairs to accommodate the raising of the Level 1 floor level by 200mm.
- Revision to the layout of the approved accessible bathroom on the Ground Floor to accommodate accessible clearances.
- Revision to size and position of windows on the Ground Floor.
- Removal of the section of roof above the pool deck seats and storage area on the western side of the Ground Floor that are proposed to be removed.
- Revision to the layout of the hydro pool plant so that it is adjacent to the approved hydro pool on the eastern side of the approved building.
- Installation of new roofing above the revised layout of the hydro pool plant of a similar material to the existing approved roof.
- Raising of hydro pool roof and parapet by 800mm to accommodate mechanical equipment.
- Raising of roof and parapet walls by 600mm on the south-western extent of the approved building.
- Raising of parapet wall by 200mm on the southern extent of the approved building.
- Revision to the direction and slope of part of the roof above the squad training pool.

All proposed revisions are clouded on the Section 4.55 Architectural Plans prepared by Quattro Architecture and are supported by the Addendum Landscape Plan, Drawing No. L-01, Revision D prepared by Space Landscape Designs Pty Ltd dated 18 May 2022 submitted with this Section 4.55(2) Application. The proposed revisions will require the revision of Condition 1 Approved Plans and Supporting Documentation.

The bulk and scale of the building remains substantially the same as that approved under Development Consent No. DA2021/2116, with an increase in the maximum parapet level of the roof by 200mm as well as an overall reduction in the Gross Floor Area (GFA) on the Ground Floor of the approved building by 34.5m².

Condition No. 31

This application also seeks to amend Condition No. 31 of Development Consent No. DA2021/2116 to revise the approved car parking allocation associated with the use of the site as an indoor recreation facility. The modified development does not seek to reduce or change the number of car parking spaces on the site, however it is sought to remove reference to the 'exclusive' use of car parking by Aqua Culture Swim and Rigs Recovery within the modified development.

Milestone and Aqua Culture Swim have liaised with Scentre Group and their town planning consultant, Urbis, to consider this aspect of the modified development in relation to the car park operation. The modified development is considered acceptable for the following reasons:

- The previous land use, which was a child care centre approved under Development Consent No. 2001/353DA, did not have dedicated car parking. Condition No. 20 of this development consent required that only three (3) car parking spaces be provided for visitors and the child pick-up and set-down area,

with the rest of the car parking in this area being used in conjunction with the overall Westfield development.

- Scentre Group has advised that Westfield currently accommodates 372 tenants and it is therefore not feasible to accommodate dedicated car parking for every tenant at the Warringah Mall.
- As outlined on Page 18 of the Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd dated 28 October 2021 submitted with the original DA, the Warringah Development Control Plan 2011 does not nominate a parking rate applicable to an indoor swimming school and therefore there is no requirement for dedicated car parking associated with the approved land use to meet a DCP parking provision.
- Given that the location of car parking in the same area as the approved development is proximate and conveniently located for those using Aqua Culture Swim and Rigs Recovery, it is unlikely that this car parking area will be at capacity as a result of other Westfield customers using these car parking spaces. There are more convenient car parking spaces located closer to the main shopping area of the Westfield Warringah Mall if customers were not carrying out dual purpose trips associated with the approved development.
- The original Traffic and Parking Assessment Report identified that peak parking demand will be 51 parked cars, with 53 parking spaces being provided within the site. The additional 2 parking spaces, in conjunction with the approximately 4,500 off-street car parking spaces associated with Westfield Warringah Mall, ensures that adequate parking is able to be provided without dedicating spaces to specific particular tenancies.
- Council's Traffic Engineer reviewed the layout for the approved development and was supportive of the proposed layout and provision.

On this basis, Condition No. 31 is sought to be amended in the following way (as shown in red):

- "31. **Allocated Parking Spaces (retail/commercial)**
*Parking allocated to this development must be clearly signposted and linemarked as being for the **exclusive** use of this development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.*
- Reason: To ensure parking availability."*

3. STATUTORY PLANNING FRAMEWORK AND ENVIRONMENTAL ASSESSMENT

3.1 Compliance Table

In accordance with Section 4.15(1) of the Act, the following section provides an appraisal of the modification having regard to the statutory planning instruments that are applicable to this site. **Table 1** identifies the compliance of the modified development with the relevant planning controls of the following environmental planning instruments:

- State Environmental Planning Policy (Industry and Employment) 2021.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- Warringah Local Environmental Plan 2011.
- Warringah Development Control Plan 2011.

Table 1 also details compliance of the proposal against Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (the Act).

Table 1: Compliance Table of Modification Against Relevant Controls

State Environmental Planning Policy (Industry and Employment) 2021
The approved development includes the display of business identification signage in association with the use of the site as an indoor recreation facility. Chapter 3 Advertising and Signage of SEPP (Industry and Employment) 2021 ensures that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish. The modified development will retain all approved signage which is consistent with the relevant provisions of the SEPP.
State Environmental Planning Policy (Resilience and Hazards) 2021
The modified development will maintain the use of the land approved under Development Consent No. DA2021/2116.

Warringah Local Environmental Plan 2011 (LEP 2011)	
LEP 2011 Control	Compliance with Requirements
Land Zoning	<p>Complies. The site is located within the B3 Commercial Core Zone as prescribed by LEP 2011. The modified development supports the approved use of the site as an indoor recreation facility, which is permissible in the B3 Commercial Core Zone.</p> <p>The modified development will continue to satisfy the relevant objectives of the B3 Commercial Core Zone by upgrading the approved building that is consistent with surrounding development. The proposed amendment to Condition No. 31 of Development Consent No. DA2021/2116 ensures that the approved development is not isolated from customers of other surrounding land uses in the Warringah Westfield development which supports business development.</p>
Clause 2.7 Demolition Requires Consent	Complies. Development consent has been received in relation to the demolition associated with the approved development.
Clause 4.3 Height of Buildings	Not applicable.
Clause 4.4 Floor Space Ratio	Not applicable.
Clause 5.3 Development Near Zone Boundaries	Not applicable. Clause 5.3 of LEP 2011 does not apply to land within the B3 Commercial Core Zone or the IN1 General Industrial Zone, to which the site is adjacent.
Clause 5.10 Heritage Conservation	Complies. The proposal is not in proximity to any items of heritage significance or heritage conservation areas.
Clause 5.21 Flood Planning	Complies. Whilst the site is identified as being subject to flood related development controls, Council has previously determined in their assessment of Development Application No. DA2021/2116 that the proposed development is not subject to further flood related development controls. On this basis, approval can be granted to the modified development as impacts continue to be considered to be acceptable.
Clause 6.1 Acid Sulfate Soils	Complies. The eastern side of the site contains land that is identified as being within a Class 4 and Class 5 Acid Sulfate Soils Area. No changes to the building structure, pilings or footings of the approved development are proposed as part of this Section 4.55 Application. We note that the modified development will still require minor excavation works for the purpose of subgrade preparation and site levelling works that are not likely to lower the watertable.
Clause 6.2 Earthworks	Complies. Any potential earthworks undertaken are ancillary to the approved development under DA2021/2116 as well as this modified development. On this basis, development consent is able to be granted pursuant to Clause 6.2(2)(b) of LEP 2011.
Clause 6.4 Development on Sloping Land	Complies. The site is located within Area A of the Landslip Risk Map, which is for land with a slope of less than 5. The subject site does not have a history of landslip risk and the Project Architect, Mr Peter Hosking at Quattro Architecture, has provided confirmation that the <i>“scope of work related to the Section 4.55 will have no impact on the stormwater design and currently approved DA”</i> .

	The Concept Stormwater Drainage Plan, Drawing No. SW01, Revision A prepared by MLH Engineers dated 2 September 2021 submitted with Development Application No. DA2021/2116 provides detailed technical information on the management of stormwater resulting from the development so as to limit any potential overall impact. The modified development is considered to continue to demonstrate satisfaction of Clause 6.4 of LEP 2011.
Warringah Development Control Plan 2011 (DCP 2011)	
DCP 2011 Control	Compliance
Part A.5 Objectives	Complies. The modified development continues to satisfy the relevant objectives of DCP 2011 by maintaining an attractive and innovative design outcome and maintaining transport access to the site through the retention of all approved car parking on the site.
Part C2 Traffic, Access and Safety	Complies. The modified development maintains all existing car parking associated with the overall Warringah Mall site and demonstrates consistency with the objectives of Section C2.
Part C3 Parking Facilities	Complies. The modified development includes removal of the 'exclusive' use of parking associated with the approved development as per Condition No. 31. This has taken into account the operation of the approved land use and the high availability of alternative car parking at the Westfield Warringah Mall site. Page 18 of the Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd dated 28 October 2021 submitted with the original DA, the Warringah Development Control Plan 2011 does not nominate a parking rate applicable to an indoor swimming school and therefore there is no requirement for dedicated parking associated with the approved land use to meet a DCP parking provision. Refer to addendum statement lodged with the Section 4.55 Modification dated 10 May 2022.
Part C4 Stormwater	Complies. The Project Architect, Quattro Architecture, has provided confirmation that the <i>"scope of work related to the S4.55 will have no impact on the stormwater design and currently approved DA"</i> .
Part C7 Excavation and Landfill	Complies.
Part C8 Demolition and Construction	Complies. The modified development will continue to operate in accordance with the approved Waste Management Plan prepared by Sean Davis dated 28 October 2021 as per Condition No. 1 of Development Consent No. DA2021/2116 with respect to construction and demolition as specified in accordance with the appropriate sections of Council's Waste Management Guidelines.
Part C9 Waste Management	Complies.
Part D3 Noise	Complies. The modified development includes revisions to the design of the approved building and an amendment to the exclusive allocation of car parking on the site. It is considered that the modified development will maintain suitable noise impacts associated with the approved development and further assessment of noise impacts is not required as they are considered to be as approved.

<p>Part D9 Building Bulk</p>	<p>Complies. The bulk and scale of the building remains substantially the same as that approved under Development Consent No. DA2021/2116, with an increase in the maximum parapet level of the roof by 200mm as well as reduction in the Gross Floor Area (GFA) on the Ground Floor of the approved building by 34.5m².</p> <p>The modified development will result in a similar positive visual impact of the approved building when viewed from adjoining properties or from the streetscape. The additional height of the modified development is deemed to not be discernible from the public domain and surrounding properties.</p>
<p>Part D10 Building Colours and Materials</p>	<p>Complies. The modified development will maintain building colours and finishes that are consistent with that which was approved under Development Consent No. DA2021/2116.</p>
<p>Part D20 Safety and Security</p>	<p>Complies.</p>
<p>Part D23 Signs</p>	<p>Complies. All approved business identification signage will be retained as approved by Council as a result of the modified development.</p>
<p>Part E1 Preservation of Trees or Bushland Vegetation</p>	<p>Complies. Tree removal on the site has been addressed via previous separate applications with Council.</p>
<p>Part E2 Prescribed Vegetation</p>	<p>Complies. The modified development is considered to have a similar level of impact on surrounding vegetation as the approved development.</p>
<p>Part E6 Retaining Unique Environmental Features</p>	<p>Not applicable. Due to the established commercial and industrial context of the site and its surrounds, it is considered that there are no distinctive environmental features that the modified development must consider.</p>
<p>Part E10 Landslip Risk</p>	<p>Complies.</p>
<p>Part E11 Flood Prone Land</p>	<p>Not applicable.</p>
<p>Part G4 Warringah Mall</p>	<p>Complies. Upon a review of Part G4 of DCP 2011, it is considered that the modified development satisfies all of the relevant requirements of this section in the following ways:</p> <ul style="list-style-type: none"> • The modified development will continue to utilise high quality, attractive and durable materials in the design of the building. • The revision design of the approved roof form will maintain its minimal visual impact. • This area of the site is subject is still afforded a nil setback from the northern and western boundaries. • The maximum height of the approved building only increases by 200mm, which produces minimal visual impact in context to the site and surrounding land uses. • Landscaping has been accounted for in the amended design of the approved building. Refer to the Addendum Landscape Plan, Drawing No. L-01, Revision D prepared by Space Landscape Designs Pty Ltd dated 18 May 2022 submitted with this Section 4.55(2) Application for further details. • The proposed development produces a decrease in the total Gross Lettable Floor Area (GLFA) of the site of 34.5m².

	<ul style="list-style-type: none"> Based on the reduction in GLFA of the modified development of 34.5m², it is considered that overall parking demand will be reduced in quantitative terms, further supporting the removal of the exclusive use of parking associated with the approved indoor recreation facility use.
Environmental Planning and Assessment Act 1979	
Section 4.55(2)	Compliance
(a) <i>it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	Complies. The use of the site as a recreation facility (indoor) as well as associated alterations and additions and business identification signage approved under Development Consent No. DA2021/1176 will be maintained as a result of the modified development. Qualitatively, the originally approved development will remain the same and will continue to accommodate swimming training and wellness centre functions. In qualitative terms, the modified development is considered to be substantially the same with respect to very minor amendments in the massing and parapet height of the approved building.
(b) <i>it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</i>	Not applicable.
(c) <i>it has notified the application in accordance with—</i> (i) <i>the regulations, if the regulations so require, or</i> (ii) <i>a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</i>	Complies. In accordance with the Northern Beaches Community Participation Plan, Council is required to publicly notify this Section 4.55(2) Application for a period of 14 days.
(d) <i>it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	Complies. The applicant will respond to any submissions received by Council during the public notification period.

3.2 Section 4.15(1) Assessment

Section 4.55(3) of the Act requires the consent authority to take into consideration matters referred to in Section 4.15(1) where relevant to the modified development. An assessment of these relevant matters is contained below.

3.2.1 Impact of the development including the environmental impact of the development on both the natural and built environment and social and economic impacts on the locality.

Visual Impact

The modified development will continue to create a positive visual contribution to the Warringah Mall site and surrounding locality as a result of non-discernible changes to the built form of the approved building. The approved finishes and materials will also be maintained to ensure the modified development remains

visually compatible with the commercial character of the locality. Therefore, the amenity of nearby neighbours and the public domain will not be adversely affected by the modified development.

Social and Economic Impact

The modified development will continue to have positive social and economic impacts on the locality as a result of maintaining the approved use of the site under Development Consent No. DA2021/2116 that will serve the needs of the Northern Beaches LGA in terms of access, employment security and community structure. The modified development will include changes to the approved building to further support the function of the site in catering to vulnerable, disabled or injured members of the community that will utilise the swim school, hydrotherapy pool and wellness centre. The modified proposal will continue to maintain an overall positive social impact for the locality and the Warringah Mall.

Acoustic Impact

The modified development includes revisions to the design of the approved building and an amendment to the exclusive allocation of car parking on the site. It is considered that the modified development will maintain suitable noise impacts associated with the approved development and further assessment of noise is not required.

The approved hours of operation of the new recreational facility (indoor) are retained as approved and there is no change to this operational aspect as a result of the modified proposal.

Construction Impacts

Construction impacts associated with the modified development will be appropriately managed in accordance with the relevant conditions of Development Consent No. DA2021/2116.

Geotechnical Impact

Geotechnical considerations were not raised as a significant issue associated with the approved development within Milestone's or Council's assessment of the DA/2021/2116. We note that the modified development will still require minor excavation works for the purpose of subgrade preparation and site levelling works that are not likely to lower the watertable consistent with the approved development. This application seeks to maintain that the detailed design of the modified development aligns with the findings of the document submitted with the original DA and identified in Condition No. 1 of DA2021/1176. Conditions Nos. 21, 28, 35 and 42 of DA2021/1176 require that the development be constructed or managed in accordance with the recommendations and findings of the original Geotechnical Report submitted with the original DA. The modified development will continue to ensure compliance with these conditions.

Utilities

Adequate utility services will continue to remain available to the site in order to meet the needs of the approved development, as modified.

BCA Compliance

The modified development will continue to achieve compliance with the BCA in accordance with the addendum Statement received by McCarthy Consulting Group NSW Pty Ltd dated 6 June 2022.

3.2.2 Suitability of the Site for the Development

The modified development will continue produce a positive planning outcome that is ideally suited to the context of the site within the B3 Commercial Core Zone as prescribed by LEP 2011. The proposed revisions to the design of the approved building and amendment to the exclusive allocation of car parking on the site for the purposes of an indoor recreation facility is permissible within this zone. The site enjoys a high level of access to both public transport and the local and regional road network and existing car parking infrastructure located within the Warringah Mall.

The proposal will update the approved building to accommodate existing sewer infrastructure and internal ducting which is appropriate for the locality and is consistent with surrounding development. The modified development therefore continues to remain highly appropriate to the locality.

3.2.3 Any submissions made in accordance with the Act or Regulation

Schedule 2 of the Local Planning Panels Direction issued by the Minister for Planning and Public Spaces under Section 9.1 of the Act contains development of a kind that must be determined by the Northern Beaches Local Planning Panel (NBLPP). The following conflicts of interest must be considered by the NBLPP if applicable as the consent authority:

1. **“Conflict of interest**

Development for which the applicant or land owner is:

- *the council*
- *a councillor,*
- *a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979,*
- *a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or*
- *a relative (within the meaning of the Local Government Act 1993) of a person referred to in bullet points 2 - 4 above.*

but not development for the following purposes:

- *internal alterations and additions to any building that is not a heritage item,*
- *advertising signage,*
- *maintenance and restoration of a heritage item, or*
- *minor building structures projecting from the building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).”*

This Statement of Environmental Effects Report has been reviewed by Lisa Bella Esposito, who is an Expert Member (Planner) of the NBLPP. Milestone (AUST) Pty Limited is owned by Lisa Bella Esposito. Milestone (AUST) Pty Limited is not the Applicant for this Development Applicant nor land owner of No. 145 Old Pittwater Road, Brookvale (Lot 103 DP 1247294). This Section 4.55(2) Application is not considered sensitive development nor does it depart from a development standard imposed by an environmental planning instrument, that being the Warringah Local Environmental Plan 2011.

Council is required to publicly notify this Section 4.55(2) Application for a period of 14 days in accordance with the Northern Beaches Community Participation Plan. The applicant will respond to any submissions received by Council during the public notification and advertising period.

3.2.4 The Public Interest

The modified development continues to be within the public interest as it facilitates the orderly growth and development of land zoned for business uses which caters to the welfare needs of residents and the workforce of the Northern Beaches LGA. Further the modified development will continue to cater for the parking needs of the approved development.

The proposed modifications to Development Consent No. DA2021/2116 recognise the physical context of the site and the commercial operation of the Warringah Mall, without detracting from the existing amenity of surrounding properties.

The modified development is in the public interest as it continues to support the approved use of the site as an indoor recreation facility, which is well serviced by existing transport and parking infrastructure and will generate an overall positive outcome for the locality whilst providing minimal overall environmental impact.

4. CONCLUSION

This Section 4.55(2) Application seeks to modify Development Consent No. DA2021/2116 to revise the design of the approved building and propose an amendment to the exclusive allocation of car parking on the site at No. 145 Old Pittwater Road, Brookvale. The modified development has been assessed against the applicable planning framework and is considered appropriate for the following reasons:

1. The modified development will continue to facilitate the operation of the existing approved indoor recreation facility and achieves a high level of compliance with the aims, objectives and provisions contained within the Warringah LEP 2011 and Warringah DCP 2011;

2. The revised design of the approved building is substantially the same as that which was approved under Development Consent No. DA2021/2116 to accommodate existing sewer infrastructure and internal ducting on the site.
3. The amendment to the exclusive allocation of car parking on the site will retain the exact number of approved total car parking spaces of the Westfield Warringah Mall site and will still allow car parking spaces to be used in association with the approved indoor recreation facility without reducing the total availability of car parking for customers of the 357 other tenancies of the site.
4. The modified development has a well-considered and appropriate design and continues to remain compatible with the surrounding land uses within the Brookvale locality.
5. The modified development is in the public interest as it will continue to support the approved use of the site as an indoor recreation facility and will continue to cater for the welfare needs of the residents and the workforce of the Northern Beaches LGA.

In light of the merits of the proposal and in the absence of any significant adverse environmental, social or economic impacts, we have no hesitation in recommending that this Section 4.55(2) Application be approved.

Should you require further clarification regarding this matter, please do not hesitate to contact the undersigned.

Yours sincerely

Milestone (AUST) Pty Limited



Ryan Kelleher
Assistant Planner



Lisa Bella Esposito
Director

Encl.