



Warringah Mall

Section 96(1A) Modification to DA2008/1741

August 2015

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1 Introduction

This report has been prepared by Urbis on behalf of *Scentre Pty Ltd* to accompany an application pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (the Act).

This application seeks to modify DA2008/1741 for '*the partial demolition of existing buildings, and construction of new retail floorspace and a multi-level car park at Warringah Mall*' (previously modified by MOD2014/0079, MOD 2014/0200, and MOD2014/0230) to amend the roof height of the approved shade sail structure over centre court from RL 28.00 to RL 29.20 representing an increase in height of 1.2 metres.

DA2008/1741 was approved by Warringah Council with Deferred Commencement Conditions on 28 April 2010. Documentation to comply with the deferred commencement conditions was submitted to Council in August 2013. Council have since confirmed that this information satisfied the requirements of the deferred commencement conditions and that the consent is now operational.

The proposed changes will require modifications to the following conditions of consent:

- **Condition 1B – Modification of Consent – Approved Plans and supporting Documentation**
- **Condition 30C – Height of Open Roof Structures**

Other conditions may require modification to ensure consistency with the approved development.

This report provides:

- A description of the approved development.
- A description of the proposed modifications.
- Consideration of the proposed changes against the provisions of Section 96(1A) of the Act.
- An assessment of the proposed modification against the matters for consideration pursuant to Section 79C of the Act.

The assessment of the application outlined in this report clearly demonstrates that the proposed modifications will have minimal environmental impact, will result in substantially the same development that was approved, and satisfies the requirements of Section 96(1A) of the Act.

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 Shade Sail Structure, prepared by Scentre Design and Construction Pty Ltd (**Appendix B**);
- Warringah Development Control Plan 2011 Compliance Table (**Appendix C**);
- Notice of Determination for MOD2014/0230 dated 18 December 2014 (**Appendix D**); and
- Council Urban Design Referral Report for MOD2014/0230 (**Appendix E**).

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 obtained 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.

2.3 PREVIOUS MODIFICATION APPLICATIONS

2.3.1 MOD2014/0079

This application sought to modify the development consent under DA2008/1741. 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 on 15 September 2014.

2.3.2 MOD2014/0200

The proposed modifications under this application related to the changing of the wording of Condition no. 49, 51, 58, 60, 61 and 63 of DA2008/1741. The modifications proposed the changing of the timing compliance with the conditions from prior to the issue of any Occupation Certificate to prior to the issue of the relevant Occupation Certificate. This was to allow the issuing of an interim occupation certificate to be issued for the 'Starfish Carpark' to allow its opening to cater for the additional Christmas car parking requirements of the centre. The modification application was approved on 09 December 2014.

2.3.3 MOD2014/0230

Section 96(2) application MOD2014/0230 was submitted to Council seeking to amend the works approved under DA2008/1741 and the previous modification applications. The application sought to make the following modifications to the approved development:

- Revised façade treatment of the Palm Tree car park at the corner of Cross and Green Streets to increase the soft landscaping associated with the green façade.
- Removal of Star Fish car park express ramp, the access driveway at the south-western corner of the site.
- Internal retail mall amendments to Centre Court including:
 - **The construction of an open air shade sail designed with open sides and a clerestory highlite along the structural spine (as shown in Figure 1 below);**
 - Reconfigured layout to facilitate functions and events including relocation existing dolphin structure, relocation of access stairs and new and relocated kiosks;
 - Replacement of the existing canopy associated with Myer North; and
 - Minor increase to ground level shop fronts to the void edge.

FIGURE 1 – CENTRE COURT OPEN AIR SHADE SAIL STRUCTURE (proposed as part of MOD2014/0230)



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 2011 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.

Section 96(2) application MOD2014/0230 was approved by Council on 17 December 2014. For details regarding the amended conditions of consent and the urban design comments discussed above, refer to the Notice of Determination attached in **Appendix D**.

3 Proposed Modification

3.1 CENTRE COURT SHADE SAIL STRUCTURE MODIFICATION

This Section 96(1A) modification seeks to amend the works approved under DA2008/1741, and previously modified under MOD2014/0079, MOD2014/0200, and MOD2014/0230. The application specifically seeks to make the following modification to the approved development:

- Amend the roof height of the approved shade sail structure over centre court from RL 28.00 to RL 29.20 representing an increase in height of 1.2 metres.

This amendment to the Centre Court Shade Sail structure will enhance the functionality and amenity of Centre Court, as the taller Shade Sail will improve natural light and ventilation within this space, and strengthen the visual relationship between Centre Court and the natural elements, while maintaining weather protection.

In accordance with the Council Urban Designer's comments requiring "a view impact study if the sail structure exceeds the RL 28 building envelope control", a View Impact Study has been undertaken to assess the view impact on neighbouring development of the proposed increase in the approved height and form of the Shade Sail Structure.

The View Impact Study assesses the view impact affecting properties overlooking the roof area from the higher escarpment areas to the west, north west and south west of the site as shown in **Figure 2** and **Figure 3** below.

FIGURE 2 – VIEWS 1 & 2 OVERLOOKING CENTRE COURT



FIGURE 3 – VIEWS 3, 4, & 5 OVERLOOKING CENTRE COURT



The View Impact Study finds that only a few points along the escarpment have views to the Centre Court. In addition, the views that would be impacted by the Centre Court Shade Sail Structure are minor and would be to other structures within the Warringah Mall development and adjoining commercial buildings. The View Impact Study is provided in **Appendix B**.

The proposed modification will not result in any changes to the approved GLA or car parking arrangements.

3.2 AMENDMENTS TO CONDITIONS OF CONSENT

An amended architectural plan (*Drawing no. DA 01.5403 Centre Court Rev C, dated 22/07/2015*) for the Centre Court Shade Sail reflecting the amended height of RL 29.20 has been provided in **Appendix A**.

- Condition 1B – ‘*Modification of Consent – Approved Plans and supporting Documentation*’ of DA2008/1741 (modified as part of MOD2014/0230) will need to be modified to include the amended architectural plan for the Centre Court Shade Sail (*Drawing no. DA 01.5403 Centre Court Rev C, dated 22/07/2015*), and to remove reference to Drawing No. DA 01.5403 Centre Court Rev B, dated 14/11/2014, approved under MOD2014/0230.
- Condition 30C of DA2008/1741 (added as part of MOD2014/0230) provides a maximum height of RL28.00 for the height of open roof structures. It is proposed to amend Condition 30C to reflect the proposed amendment to the height of the Centre Court Shade Sail Structure as shown in red below:

“30C. Height of Open Roof Structures

The open air 'garden trellis' glazed canopy located over the 'Myer North' section of the centre ~~and the open air shade sail over the existing centre court area are to~~ is to be restricted to a maximum height of RL 28.00, and the open air shade sail over the existing centre court area is to be restricted to a maximum height of RL 29.20.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.”

4 Section 96(1A) Assessment

The proposed modification to the existing development consent 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 1.2 metre increase in the height of the Centre Court Shade Sail 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.
- The views that are impacted by the Centre Court Shade Sail structure 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 Shade Sail Structure over Centre Court which represents a small percentage of the overall roof structure of the shopping centre development.
- The proposal does not increase the GLA of the centre or result in any amendments to stormwater augmentation or car parking spaces.
- While the proposed modification provides a more open and airy Centre Court through the increase in the height of the Shade Sail structure, the changes to the overall development outcomes are minor in nature.

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 amendment to the Centre Court Shade Sail structure will improve the functionality of the space at the 'heart of the mall' by improving natural light/air circulation within the space and strengthening its visual relationship to the natural elements, while maintaining its weather protection.

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 height of the Shade Sail will exceed the Warringah Mall envelope height of RL 28.00 by 1.2 metres. This represents a minor increase over the envelope in the context of the significantly higher envelope of RL 30.00 and RL 34.80 proposed to the south east corner of the site. In addition the variation to the envelope will be restricted to a very limited portion of the overall roof structure of Warringah Mall.

While the proposed modification to the Shade Sail height 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.

The increased height of the Centre Court Shade Sail will improve the natural light and air circulation within the space, and strengthen its visual relationship to the natural elements.

5.3 LIKELY IMPACTS

5.3.1 BUILT FORM AND URBAN DESIGN

The proposed modifications of Centre Court will improve the natural light and air circulation within the Centre Court by increasing the open edge of the Shade Sail structure.

This increase in the height of the Shade Sail will also strengthen the visual relationship between the Centre Court and the natural elements, while maintaining weather protection to provide entertainment areas and activate the Centre Court 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 a more functional Centre Court with increased amenity in terms of natural light and ventilation, while strengthening the visual relationship between the Central Court area and the 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 E**, 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 Centre Court. The taller Shade Sail will improve natural light and ventilation within Centre Court, and strengthen its visual relationship to the natural elements, while maintaining weather protection to provide entertainment areas and activate this space 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.

Disclaimer

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Appendix A

Revised Architectural Plan

Appendix B

View Impact Study of the amended Centre Court Shade Sail Structure

Appendix C

Warringah DCP 2011 Compliance Table

Appendix D

Notice of Determination for Mod2014/0230 dated 18 December 2014

Appendix E

Council Urban Design Referral Report for MOD2014/0230

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