

28th February 2022

The General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

To whom it may concern,

SECTION 4.55(2) MODIFICATION - STATEMENT OF ENVIRONMENTAL EFFECTS

**APPLICATION: DA 18/0153.3 FOR CONSTRUCTION OF WAREHOUSE BUILDINGS x 2
& USE OF WAREHOUSE 1 BY FLOWER POWER**

**PROPERTY: 52-72 GRADY CRESCENT, ERSKINE PARK
(PART LOT 9 IN DP 1261030)**

EXECUTIVE SUMMARY

In July 2018, Penrith City Council approved Development Application 18/0153 for the construction of two (2) Warehouses, with Warehouse 1 to be used by Flower Power. This Statement of Environmental Effects is only relevant to that portion of DA 18/0153.3 which is yet to be constructed, being Warehouse 2 ("***the approved development***"). Fitzpatrick has now entered into an agreement with a Tenant for the building known as Warehouse 2.

Fitzpatrick Investments Pty Ltd ("***Fitzpatrick***") (the applicant) wishes to amend this Development Application by:

- Deleting the approved Office A, which is surplus to the Tenant's needs and replacing it with on grade carparking as an extension to the approved at grade car parking (separated by fencing from the warehouse hardstand) with adjustments to the building facade
- Change the basement carpark to an under-croft running North South rather than the much more difficult and costly East West arrangement currently approved
- Parking numbers reduce from 151 to 80 (76 is the RMS required number @ 1:300, Councils DCP would require 227 spaces @ 1:100). The Tenant has advised it will commence with approximately 60 staff and forecasts a maximum of 80 staff for the site
- Relocate the pad mount sub to be closer to the Office B electrical load and the main switch room
- Articulate the splayed warehouse elevation addressing the intersection with Lenore and Compass Drives to improve street presentation and address

While we believe the modification more closely reflects a 4.55(1A) application and has a minimal environmental impact, we are making the modification request to be considered under section 4.55 (2) of the Act. In addition to this Statement of Environmental Effects, this Section 4.55 Modification Application is accompanied by the following supporting documentation:

- Penrith Council Development Application

- Application Fee
- Modified Architectural Plans prepared by Watson Young Architects

Drawings	Drawing Number	Revision
Site Plan	TP-102	L
WH2- Warehouse Plan	TP-202	D
WH2 – Under croft Plan	TP-203	D
WH2- Roof Plan	TP-212	D
WH2- Office Plan	TP-222	D
WH2- Elevation-Sections	TP-302	G

Consideration of the proposed modifications in accordance with the relevant considerations outlined in s.4.55 (2) of the *Environmental Planning and Assessment Act 1979*. In consideration of the likely reduction in environmental impacts, that the development is substantially the same as the previously approved development and also demonstrates the proposed modifications are appropriate in the context of the site and locality.

The proposed modifications should therefore be considered favourably by Council and supported.

THE SITE

This application relates to Lot 9 in DP 1261030 known as 52 - 72 Grady Crescent, ERSKINE PARK NSW 2759.

THE PROPOSED MODIFICATIONS

A detailed explanation of the modifications has been set out below followed by a summary of consideration of the key issues:

1. Not initially build the approved Office A and replace with On Grade Parking

Office A is not required by the Tenant. In place of Office A, the existing approved parking area is proposed to be extended to utilise the space previously allocated to a second office for the building. The same access and egress to Grady Crescent is unchanged. The intent is to retain the ability to construct a small Office over the parking proposed will allow flexibility for future tenants when the lessee's lease expires in 10 year's time. This will assist in mitigating the risk of future vacancy. Continued tenure of the building will prolong local employment, as well as contribute to creating a warehouse area that has adjacent parking for staff. Appropriate fencing will separate car and truck movements. An amenities block will also be provided at this end of the warehouse to provide easier access for warehouse staff.

2. Relocate and reduce basement Carparking

The approved East West orientated basement carpark creates substantial buildability issues with the structural steel portal frames clashing with the basement construction. It also creates fire egress issues with stairs connecting to an active hardstand. Relocating the parking to an under croft with a North South orientation on the Eastern end of the building allows the majority of the warehouse to be constructed while the under croft is being built concurrently, reducing costs and therefore rent for the Tenant. The proposed location will also allow natural ventilation of the carpark, reducing the ongoing running costs and improving the sustainability of the facility by removing mechanical ventilation. The existing access and egress to Grady Crescent remains unchanged. The open under croft will be

substantially screened from Grady Crescent by the existing approved landscaping. While screened from the road by landscaping the movement of cars will activate the frontage to Grady and break up a substantial warehouse elevation when viewed from the street.

3. Reduction in Carparking numbers

Parking numbers reduce from 151 to 80 (76 is the RMS required number @1:300, Councils DCP would require 227 spaces @1:100). The Tenant has advised it will commence with approximately 60 staff and forecast a maximum of 80 staff for the site. The proposed reduction in parking numbers reduces the environmental impacts generated by the site and encourages other modes of transport. The parking proposed will maintain the same approved dimensions for spaces, aisles and manoeuvrability from the existing approval.

4. Relocation of the Padmounted Substation

The removal of Office A encourages a move of the main switch room and pad mounted substation to be closer to the main electrical load of the building being the Office B air-conditioning system. This move will reduce the expensive cable run from the existing approved location and save valuable resources. The pad mounted substation will be screened on each side by landscaping in the same way it was in the previously approved location.

5. Corner Façade Articulation

The splayed warehouse wall fronting the intersection of Grady Crescent, Lenore and Compass Drives provides an opportunity to improve the presentation to this important corner. The centre section of the splay, framed by darker colorbond "Monument" cladding, projects forward by approximately 300mm from its surrounds. This centre framed section proposes translucent sheeting vertically on each side of the lighter colorbond "Surfmist" centre zone which incorporates a location for Tenant signage. The modification includes articulation of the building planes, the introduction of back lit translucent sheeting to provide greater interest when the warehouse lights are on and a signage opportunity to accentuate the buildings address. Below is a preliminary perspective of the proposed corner.

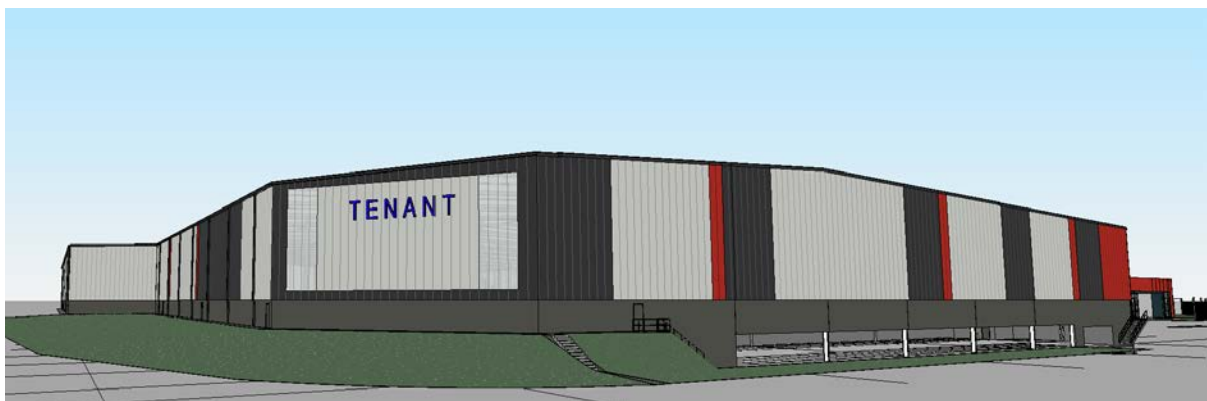


Figure 1: Preliminary perspective of modified Warehouse 2

SECTION 4.55(2) EVALUATION

A consent authority must consider the following issues when assessing a proposal to modify an existing Development Consent:

(a) it is satisfied that the development to which the consent as modified related is substantially the same development as the development for which the consent was originally granted and before consent as originally granted was modified (if at all), and

The proposed modifications will not significantly alter the approved development. Council can therefore be assured that the development will remain consistent with the original approval. The development remains substantially the same development as the development for which the consent was originally granted in that:

- There is no significant change to the overall building footprint or hard stand area;
- There is no change to building setbacks;
- There is no change to site landscaping;
- There is no change to access arrangements;
- There is no significant change to the overall appearance of the development;
- Parking remains sufficient to meet the needs of the development;
- There is no change to the approved use.

(b) 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

It is understood that the development was not integrated and the concurrence of another authority was not required.

(c) it has notified the application in accordance with:

- i. The regulations, if the regulations require, or***
- ii. A development control plan, if the consent authority is a council that has made a development control plan that required the notification or advertising or applications for modification of a development consent, and***

The proposed modification is minor in nature, reducing environmental impacts from the previous approval and should not require this application to be notified. As described previously, the proposed modifications do not significantly alter the development from what was previously approved by Council.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Council will consider submissions, if necessary, as part of the assessment process.

4.55(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The relevant provisions of S4.15(1) are:

(a) the provisions of—

- (i) any environmental planning instrument, and***
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and***
- (iii) any development control plan, and***
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and***
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),***
- (v) (Repealed)***

that apply to the land to which the development application relates,

In relation to paragraph (a), the modifications do not alter the findings of Council's assessment of the original development application in terms of compliance with relevant environmental planning instruments and development control plans.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

In relation to paragraph (b), the modifications have no significant adverse impacts on the natural or built environments or social or economic impacts on the locality.

There has been a reduction in the number of car parking spaces for Warehouse 2. This is consistent with the needs of the tenant with parking provision remaining compliant with Transport for NSW guidelines.

The description of proposed modifications and consideration of key issues indicates that the proposed changes will result in a reduction of environmental impacts for the site and locality from the previous approval. The proposed changes reduce environmental impacts by reducing cars on the road, minimising excavation, removing mechanical ventilation and matching Office space requirements to the Tenants needs. The environmental impacts of the modification are discussed further below.

(c) the suitability of the site for the development,

The modifications do not change Council's findings in relation to the suitability of the site for the proposed development.

(d) any submissions made in accordance with this Act or the regulations,

This is a matter for council consideration in the event that the application is notified.

(e) the public interest.

The development as modified remains in the public interest.

CONCLUSION

The documentation supporting this Section 4.55 Modification Application illustrate that the proposed modifications and overall development remain consistent with Council's, and the wider community's, aims and objectives for development within the Erskine Business Park. The proposal has no significant implications on surrounding land uses, which has been clearly illustrated from the above consideration of relevant matters.

The development will achieve the objectives of Council's planning controls and provide a development that will favourably contribute to the sustained economic growth of the local and regional area.

Consideration of the development in accordance with the relevant heads of consideration outlined in s.4.55 (2) of the *Environmental Planning and Assessment Act 1979* and consideration of the likely impacts of the development demonstrates the proposed modifications are appropriate and are in the public interest both in a local and regional context.

The proposed modifications should therefore be considered favourably by Council and supported.