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Attention: Jane Hetherington

RE: SECTION 4.55(1A) APPLICATION FOR MODIFICATION OF DA-18/1114 – APPROVED DEVELOPMENT – NOTICE OF DETERMINATION

PROPERTY: 128 ANDREWS ROAD, PENRITH (LOT 13 DP 217705) AND 130-172 ANDREWS ROAD, PENRITH (LOT 20 DP 1216618)

1. INTRODUCTION

Dear Jane,

Reference is made to Development Consent **DA-18/1114**, that was granted on 27 June 2019 for the approved development, at the identified subject Site located at 128 & 130-172 Andrews Road, Penrith (the Site).

This Application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), on behalf of the Proponent, Cadence Property (Cadence), which seeks to modify Development Consent **DA-18/1114** (refer to **Appendix 1**), for:

"Site Remediation works, Construction of Warehouse & Distribution Facility & Related Site Works including New Access Road & Bulk Earthworks."

Development Consent **DA-18/1114** is currently the subject of a separate Section 4.55(1A) modification application under **DA-18/1114.01** that was submitted to Council on 4 December 2019. Application **DA-18/1114.01** is for:

"Modification to an Approved Warehouse & Distribution Facility to Provide Additional Vents, Relocate the Internal Access Road & Associated Additional Roller Shutter Doors".

The proposed modifications are minor in nature and relate to the conversion of DA approved warehouse gross floor area (GFA) to ancillary office GFA, as delineated on the proposed modification drawings provided as part of the architectural plans package (refer to **Appendix 4**). The proposed modifications have no impact on the current modification application under **DA-18/1114.01**, as shown on the architectural plans within **Appendix 4**.

The modifications sought are outlined within **Section 3** below.

The proposed development will remain consistent with surrounding land uses, within which *Penrith Local Environmental Plan 2010* (PLEP 2010) applies. The proposed development is located on land, zoned IN1 General Industrial, and is positioned within the Penrith Local Government Area (LGA).

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The following supporting documentation has been provided as part of this application:

- **Appendix 1** Development Consent **DA-18/1114** – Notice of Determination
- **Appendix 2** Stamped Approved Plans
- **Appendix 3** Survey Plan
- **Appendix 4** Proposed Architectural Plans
- **Appendix 5** Traffic Assessment Addendum

2. SITE LOCATION AND CHARACTERISTICS

The identified land portion that is the subject of this modification is known as 128 Andrews Road, Penrith, which is legally referred to as Lot 20 DP 1216618, and 130-172 Andrews Road, Penrith, which is legally referred to as Lot 13 DP 217705.

The Site exhibits a total site area of approximately 27.04 hectares (ha) and is subject to applicable provisions outlined within PLEP 2010. A vehicular access / egress crossover is approved off the unnamed access road along the Site's eastern boundary, via Andrews Road to the north.

The Site is situated approximately 48.88 km west of the Sydney CBD, 29.74 km west of Parramatta and 28.75 km northwest of Liverpool, within close proximity of major regional road networks including Andrews Road, Castlereagh Road, The Northern Road, Great Western Highway and the M4 Motorway, providing connectivity to the Subject Site and immediate vicinity, as-well-as the wider locality.

The Site is adjoined by notable industrial development along its eastern and western interfaces.

Land surrounding the Site comprises the following zoning categories, including:

- IN1 General Industrial;
- IN2 Light Industrial;
- SP2 Infrastructure;
- RE1 Public Recreation; and,
- R2 Low Density Residential.

The nearest sensitive land uses are comprised by the R2 Low Density Residential zone located to the north-east and east of the Site off Andrews Road, which includes residential dwellings; and, the RE1 Public Recreation zone located to the east of the Site, encompassing Andrews Road Baseball Complex and Nepean Rugby Park.

The identified land portion is subject to the provisions outlined within PLEP 2010. PLEP 2010 is the primary EPI and categorises the Site within the IN1 General Industrial zone.

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Figure 1: Aerial image of the Site (Source: SIXMaps, 2020)

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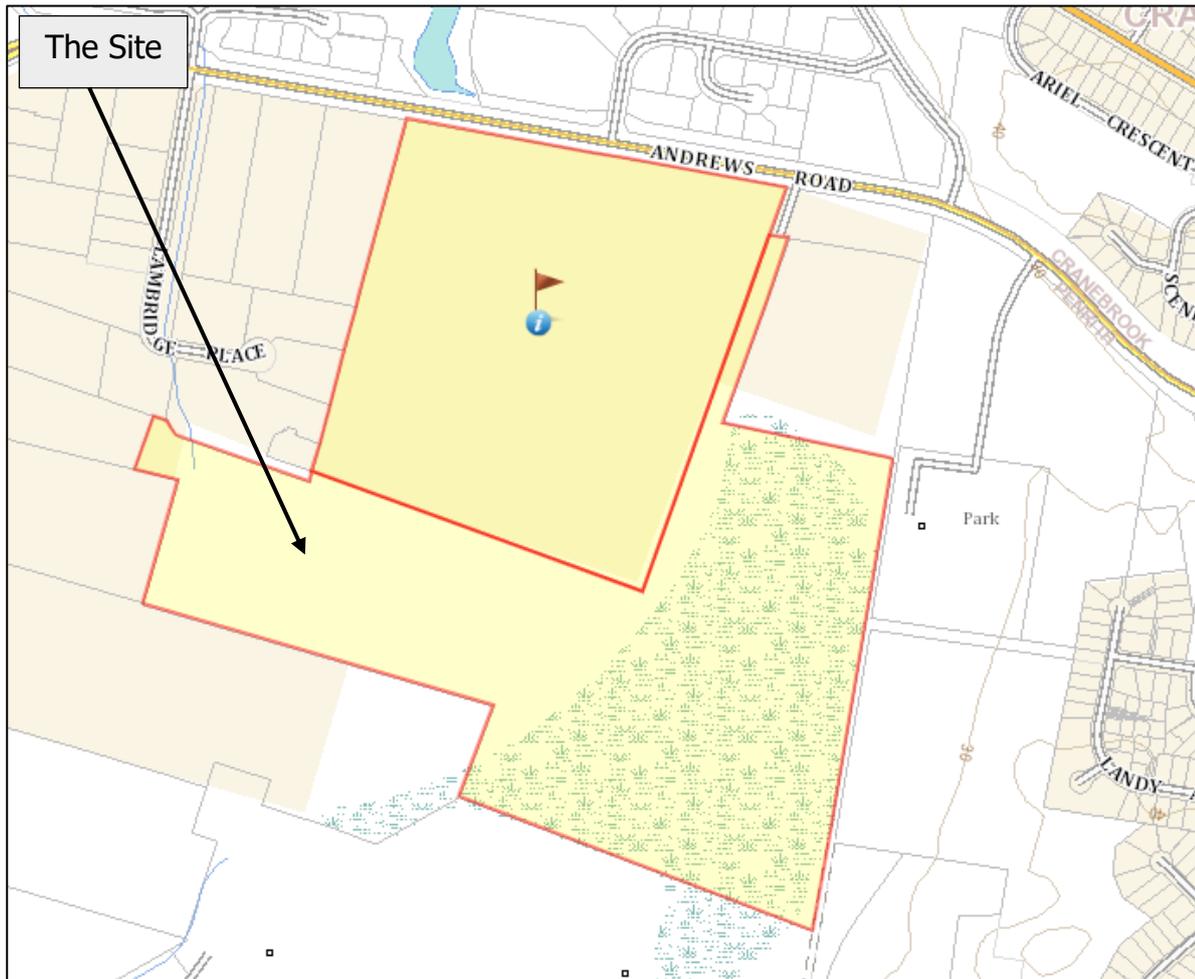


Figure 2: Cadastral Layout of Subject Site and Surrounding Area (Source: SIX Maps, 2020)

3. PROPOSED MODIFICATIONS

The modifications sought to Development Consent **DA-18/1114** (refer to **Appendix 1**), and Stamped Approved Plans (refer to **Appendix 2**), are for the conversion of 40m² of Warehouse GFA to ancillary office GFA within the approved warehouse building. Refer to **Figure 3** including an extract of the proposed location of the ancillary office.

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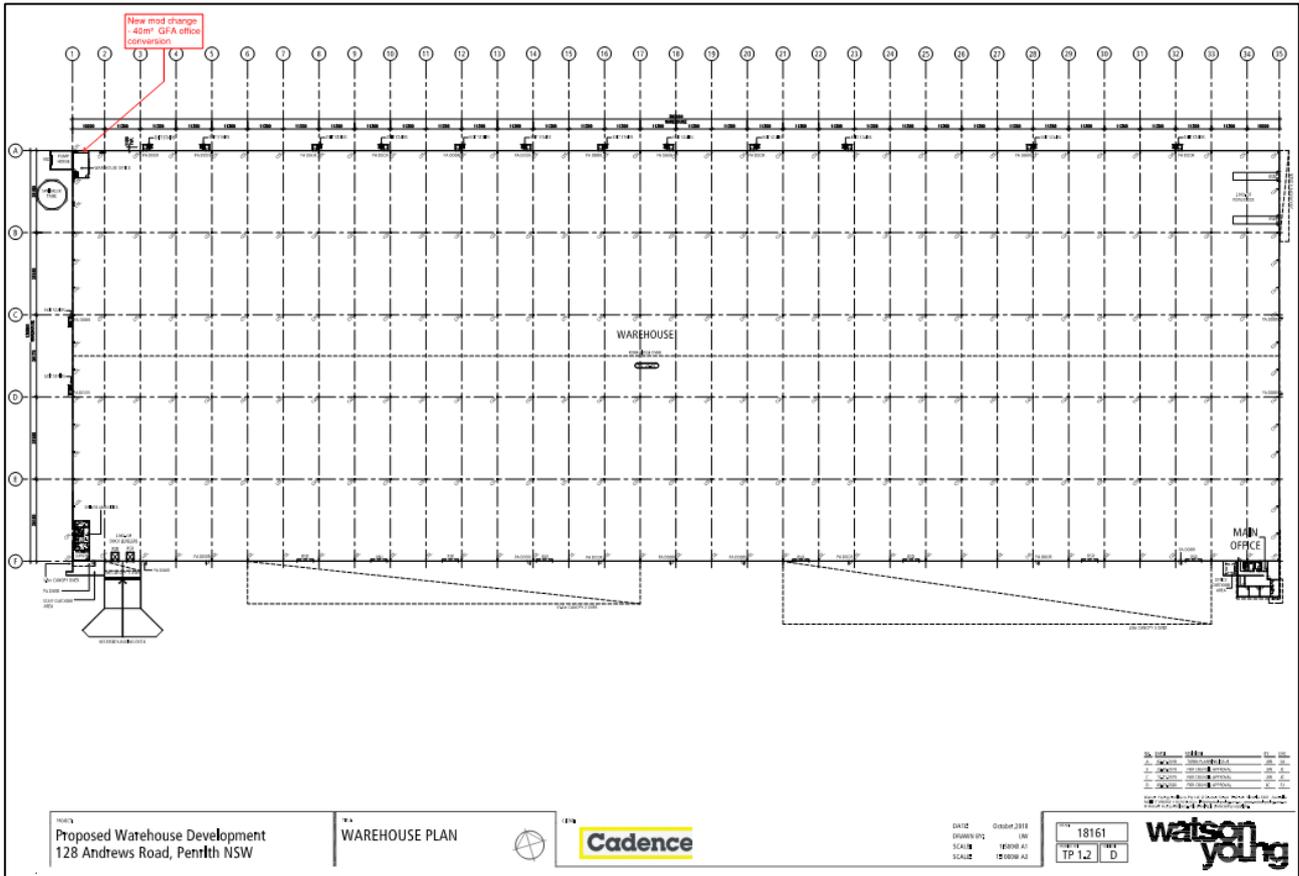


Figure 3. Proposed Warehouse Plan showing the location of the proposed ancillary office at Ground Level (Source: Watson Young, 2020)

Accordingly, the desired development outcome, as outlined above, requires the following modifications to Development Consent **DA-18/1114**. The proposed modifications relate solely to Condition 1 of the relevant DA.

3.1 Condition 1 A001 - Development Consent – DA-18/1114

For ease of assessment, the approved plans proposed to be removed are shown with a ~~strike through~~ and the updated plans are highlighted in **bold text**.

"The development must be implemented substantially in accordance with the flowing plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing Reference	Prepared By	Dated
Locality plan	18161 TP0.1 (Issue A) 18161 TP0.1 (Issue B)	Watson Young Architects	02/11/2018 09/03/2020
Master Plan	18161 TP0.3 (Issue A) 18161 TP0.3 (Issue D)	Watson Young Architects	02/11/2018 09/03/2020
Site Plan	18161 TP1.1 (Issue A)	Watson Young Architects	02/11/2018
Site Plan - Site 1 and Shared Access Road	18161 TP1.1 (Issue F)	Watson Young Architects	09/03/2020
Warehouse Plan	18161 TP1.2 (Issue A) 18161 TP1.2 (Issue D)	Watson Young Architects	02/11/2018 09/03/2020

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Roof Plan	18161 TP1.3 (Issue A) 18161 TP1.3 (Issue C)	Watson Young Architects	02/11/2018 11/11/2019
Office Floor Plans	18161 TP1.4 (Issue A) 18161 TP1.4 (Issue D)	Watson Young Architects	02/11/2018 09/03/2020
Elevations	18161 TP1.5 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Part 1	18161 TP1.6 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Part 2	18161 TP1.7 (Issue A)	Watson Young Architects	02/11/2018
Elevations – Office	18161 TP1.8 (Issue A)	Watson Young Architects	02/11/2018
Section	18161 TP1.9 (Issue A)	Watson Young Architects	02/11/2018
Site Plan – Site 2	18161 TP2.1 (Issue A)	Watson Young Architects	02/11/2018
Overall Elevations – Site 2	18161 TP2.2 (Issue)	Watson Young Architects	02/11/2018
Landscape Concept Plans	181003 LDA00-08	Geoscapes Landscape Architects	04/02/2019
Stormwater Management Plan	C013620.00 DA 10-52 (Issue: up to H)	Costin Roe Consulting	31/01/2019
Waste Management Plan	WTJ18-289	Willow Tree Planning	1/11/2018

4. STATUTORY PLANNING FRAMEWORK

The following current and draft State, Regional and Local planning controls and policies have been considered in the preparation of this Application:

- *Environmental Planning and Assessment Act 1979;*
- *Environmental Planning and Assessment Regulation 2000;*
- *Water Management Act 2000;*
- *Rural Fires Act 1997; and*
- *State Environmental Planning Policy No. 55 – Remediation of Land;*

Local Planning Context

- *Penrith Local Environmental Plan 2010 (PLEP 2010);*
- *Penrith Development Control Plan 2014 (PDCP 2014).*

This planning framework is considered in detail, where necessary, in the following sections.

4.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principle planning and development legislation in New South Wales. Pursuant to Part 4, of this Act the proposed development is considered Local Development. The modifications sought to Development Consent **DA-18/1114** warrants consideration of the provisions of Section 4.55(1A) of the EP&A Act. The provisions of Clause 4.55 of the EP&A Act provided in **Table 1** require consideration in this instance.

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Table 1. Section 4.55(1A) – (3) Assessment	
Clause	Response
<i>(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—</i>	
<i>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</i>	Given the nature and extent of the changes proposed, the modifications sought would have no undue environmental impacts. Overall, there is no intensification of the proposal and the proposed modifications will result in enhanced operation outcomes for the Site. Section 6 of this Report considers the proposed developments impact on the immediate and surrounding environments.
<i>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	The proposed modification would result in the same built form & operational outcomes to that previously approved. The proposed development relates to only minor changes which will include the conversion of 40m ² existing GFA from warehouse to ancillary office within the approved built form. The modifications are so minor in nature that only Condition 1 of the approved conditions of consent, issued under DA-18/1114 will require amendments.
<i>(c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (ii) 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>	Given the nature of the modification, notification of this application should not be required as the outcomes of the proposed development would remain substantially the same as previously approved.
<i>(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.</i>	Should submissions be required in response to the proposal, the Applicant will provide an adequate response to address these, should it be considered necessary. Regardless, the modification does not give cause to any substantial changes which may warrant notification.
<i>(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.</i>	Development Consent DA-18/1114 was approved by Sydney Western City Planning Panel (the Panel) on 26 June 2019. The <i>Determination and Statement of Reasons</i> report, dated 17 June 2019, includes reasons for the unanimous decision. A full response to Section 4.55(3) is detailed in Section 4.1.2 of this letter.

Having regard to the above, the proposed modifications will result in a development that will remain substantially the same as that approved under **DA-18/1114**.

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4.1.1 Section 4.55(1A)(b) – Substantially the same

The scope of a maximum modification of a consent without constituting assessment as a standalone application can be analysed through the ambit of *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*, whereupon Commissioner Mason P. found in relation to modification of development consents that the word “modify” was given the ordinary meaning of “to alter without radical transformation”. Therefore, the extent to which a consent may be modified is that to which the consent, as modified, is as approved without radical transformation or alteration.

The development, as modified, is substantially the same development and will not result in a radical transformation of **DA-18/1114** for the following reasons:

- The modification remains a Warehouse and Distribution Facility which retains the approved primary land use for warehouse and distribution purposes, and proposes no substantial change to this fundamental element of the approval;
- There are no substantial quantitative changes proposed to the approved building bulk or scale including changes to the height, GFA, or setbacks of the building;
- The internal reconfigurations to the building are not considered to inherently alter the primary operations of the building or affect the amenity of its occupants; and
- The function, form, operations, business logistics, and importantly, public perception of the Site, as a Warehouse development, being primarily used for warehouse and distribution purposes, remains largely unchanged, with the reconfigurations retaining the original intent of the development as approved.

In light of the above, the proposal as amended, is not considered to result in a “radical transformation” of the consent, as currently approved, satisfying the radical transformation test pursuant to *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*.

The proposal is not considered to be material or essential elements of the approved development which would constitute a radical change to the ultimate development outcome of the Site. This is further analysed in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* which applies a quantitative and qualitative test to determine what qualifies a development as being “substantially the same”.

Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280 provides that a comparison of the development as approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development. The comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the Development Consent was granted).

Whilst it is acknowledged that the proposal includes the conversion of warehouse GFA to ancillary office space GFA, this is not considered to be substantial or comprise a critical element of the development. Further, from a qualitative perspective, the development retains its identity as a Warehouse and Distribution Facility.

Therefore, the proposal, as amended, will be substantially the same development as approved, and satisfies the requirements for the application to be assessed and approved pursuant to Section 4.55(1A) of the EP&A Act.

4.1.2 Section 4.55(3) – Reasons given by the consent authority for the grant of the consent

Development Consent **DA-18/1114** was approved by Sydney Western City Planning Panel (the Panel) on 26 June 2019. The *Determination and Statement of Reasons* report, dated 17 June 2019, includes reasons for the unanimous decision. These reasons and a response to each reason in the context of the proposed modification are detailed in **Table 2**.

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Table 2. Response to Determination and Statement of Reasons	
Reasons for the Decision	Response
<p>1. <i>The proposed development will provide warehousing facilities to be used in conjunction with the adjoining glass product manufacturing factory within an established industrial area. The proposal will also provide additional employment within the Western Sydney District and the City of Penrith.</i></p>	<p>The proposed modification will not undermine this reason. The proposed ancillary office will support the approved operation of the warehouse and distribution centre.</p>
<p>2. <i>The Panel has considered the Applicant's request to vary the development standard contained CL.4.3 Height of Buildings Penrith LEP 2010 and considers the standard is unreasonable and unnecessary in the circumstances of this case as the proposed variation will not generate unacceptable impacts on nearby premises, is consistent with the scale and form of development in the locality and will have no significant impact on view lines. Further the proposed height will provide internal clearance height facilitating the intended pallet storage function. The variation is considered to remain consistent with the objectives of the standard and the applicable IN1 General Industrial zoning.</i></p>	<p>The proposed modification will not undermine this reason. No change is proposed to the approved building height.</p>
<p>3. <i>The proposed development subject to the conditions imposed adequately satisfies the relevant State legislation and State Environmental Planning Policies including the Water Management Act 2000, SEPP 55 (Remediation of Land), SEPP (Infrastructure) 2007, SEPP 64- Advertising and Signage and Sydney Regional Environmental Plan No20- Hawkesbury Nepean River.</i></p>	<p>The proposed modification will not undermine this reason.</p>
<p>4. <i>The proposal adequately satisfies the objectives and provisions of Penrith LEP 2010 (Amendment 4) The Panel notes that the proposal satisfies the provisions of Cl. 7.2 Flood Planning and Cl. 7.5 Protection of Scenic Character and Landscape Values.</i></p>	<p>The proposed modification will not undermine this reason. The proposed development is consistent with the objectives and provisions of the PLEP 2010.</p>
<p>5. <i>The proposal adequately satisfies the objectives and provisions of Penrith Development Control Plan 2014. The Panel notes that while the provision of onsite parking is less than that required by the DCP, the amount provided is considered acceptable in the circumstances of this particular case given the specific function of the proposed warehouse.</i></p>	<p>The proposed modification will not undermine this reason. The proposed development is consistent with the objectives and provisions of the PDCP 2014.</p> <p>It is understood that Development Consent DA-18/1114 was approved with provision of onsite parking that is less than that required by the PDCP 2014. As stated within the Reasons for the Decision, <i>the amount provided is considered acceptable in the circumstances of this particular case given the specific function of the proposed warehouse.</i></p> <p>The proposed conversion of 40m² warehouse GFA to ancillary office GFA will not necessitate the</p>

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	<p>requirement for additional car parking as the applicable PDCP 2014 car parking rate remains the same, being:</p> <ul style="list-style-type: none">• Warehouse and Distribution Facilities, including ancillary office - 1 space per 100m² of gross floor area. <p>Refer to Section 6.1 of this letter and the justification provided in the Traffic Statement prepared by Ason Group at Appendix 5 for further details.</p>
<p>6. <i>The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environment including the function of existing or proposed nearby premises or the operation of the local road system, the local riparian system, the local ecology or local views.</i></p>	<p>The proposed modification will not undermine this reason.</p>
<p>7. <i>The proposed development is considered to be of a scale and form which will integrate with the existing development of this established industrial precinct.</i></p>	<p>The proposed modification will not undermine this reason.</p>
<p>8. <i>In consideration of conclusions 1-7 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.</i></p>	<p>The proposed modification will not undermine this reason.</p>

Refer to the 'Likely Impacts' section of this statement below (**Section 6**) for further consideration of matters of environmental impact in the context of the proposed modification.

From a review of the reasons for the decision and responses in **Table 2**, the modification will not undermine the reasons for the Development Consent granted under **DA-18/1114**.

4.2 Water Management Act 2000

As outlined above, the Site comprises a watercourse intersecting the north-western interface, being an inlet / tributary of the Nepean River; and, the southwestern interface, comprising an identified Wetland. The proposed modifications will not result in development on these portions of the Site. Notwithstanding this, pursuant to Section 91(2) of the *Water Management Act 2000* (Water Management Act) "A *controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land.*"

For purposes of the Water Management Act, *waterfront land* includes land 40 m inland of the highest bank of a river (inclusive of any tributary of a watercourse). A *controlled activity* means:

- the erection of a building or the carrying out of a work (within the meaning of the Environmental Planning and Assessment Act 1979), or*
- the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or*
- the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or*
- the carrying out of any other activity that affects the quantity or flow of water in a water source.*

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Given the proposed modification is entirely contained within the approved building footprint under **DA-18/1114**, a controlled activity approval would not be required. As such, the proposed modification would not constitute Integrated Development requiring referral under Section 4.46 of the EP&A Act and Section 91 of the Water Management Act. It is noted that a referral was undertaken as part of the original approval and it is not considered that the proposed modification would change the intentions of the previous referral.

4.3 Rural Fires Act 1997

The proposed development is identified as bushfire prone land (Vegetation Category 1 & 2 and Vegetation Buffer). Although the part of the land is mapped as bushfire prone land, and as outlined as part of the original approval, the proposed development is surrounded by land that is consistent with land described as being actively grazed and well maintained paddocks and yards and existing industrial developments – meaning that there is minimal fuel requirement to allow for the spread of fire, and cause the impact of fire to the proposed development.

The proposed modifications which relate to the internal conversion of 40m² warehouse GFA to ancillary office GFA will not undermine the assessment undertaken in this regard as part of the original approval and therefore, further consideration is not considered necessary.

4.4 State Environmental Planning Policy No 55 - Remediation of Land

Under the provisions of *State Environmental Planning No 55 – Remediation of Land* (SEPP 55), where a Development Application is made concerning land that is contaminated, the consent authority must not grant consent unless:

- (a) *It has considered whether the land is contaminated;*
- (b) *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out;*
and,
- (c) *If the land requires remediation to be made suitable for the purposes for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

As per Condition 15 of **DA-18/1114**, remediation of the Site is required which will be carried out in accordance with the approved 'Remediation Action Plan' prepared by EIS, dated 4 February 2019. Regardless, the proposed modifications relate to the internal conversion of 40m² warehouse GFA to ancillary office GFA will not inhibit the intentions of the EIS report nor the site remediation works which are required to be carried out in accordance with **DA-18/1114**.

4.2 Penrith Local Environmental Plan 2010

PLEP 2010 is the principal EPI applicable to the Site. The Site is zoned as follows:

- IN1 General Industrial.

Figure 4 provides an extract of the relevant PLEP 2010 zoning map showing the location of the Site.

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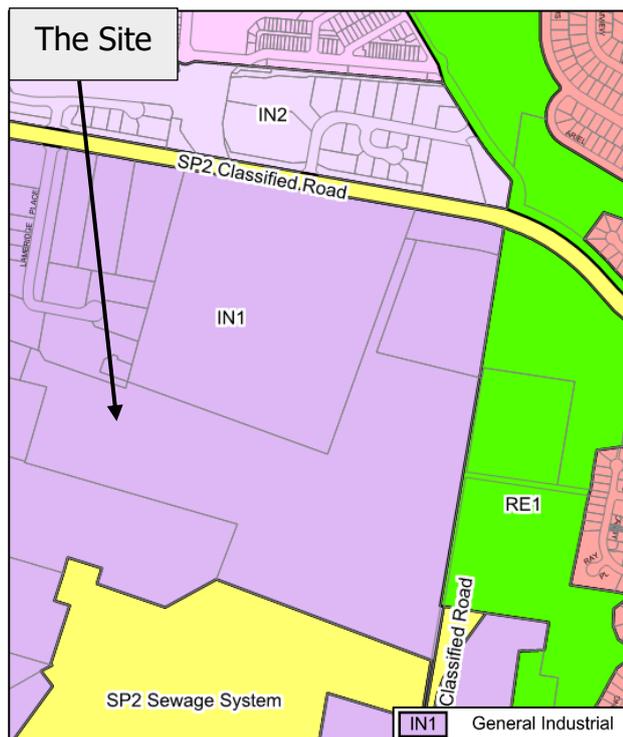


Figure 4. Extract of the relevant PLEP 2010 Zoning Map Sheet LZN_012 (Source: NSW Legislation, 2020)

Table 2 below outlines the relevant planning controls applicable to the Site, as stated within PLEP 2010.

Table 2. Penrith Local Environmental Plan 2010 (PLEP2010) – General LEP Clauses	
Requirement	Application to Proposed Development
Clause 2.3 – Zone Objectives and Land Use Table	(2) <i>The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</i>
IN1 General Industrial	
IN1 General Industrial – Objectives of Zone	<ul style="list-style-type: none"> ▪ <i>To provide a wide range of industrial and warehouse land uses;</i> ▪ <i>To encourage employment opportunities;</i> ▪ <i>To minimise any adverse effect of industry on other land uses;</i> ▪ <i>To support and protect industrial land for industrial uses;</i> ▪ <i>To promote development that makes efficient use of industrial land; and,</i> ▪ <i>To permit facilities that serve the daily recreation and convenience needs of the people who work in the surrounding industrial area.</i>
Permitted without Consent	<i>Nil</i>
Permitted with Consent	<i>Animal boarding or training establishments; Boat building and repair facilities; Car parks; Depots; Environmental facilities; Environmental protection works; Flood mitigation works; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Industries; Kiosks; Landscaping material supplies; Light industries; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Roads; Rural industries; Self-storage units; Signage; Storage premises; Take away food and drink premises; Timber yards; Transport depots; Truck</i>

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	<i>depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres.</i>
Prohibited	<i>Hazardous industries; Offensive industries; Any other development not specified in item 2 or 3.</i>
PLEP 2010 Principal Development Standards	
Clause 4.1 – Minimum Lot Size	N/A. The modification does not propose to amend the lot sizes.
Clause 4.3 – Height of Buildings	N/A. No change to approved height is proposed.
Clause 4.4 – Floor Space Ratio	N/A.
Clause 4.6 – Exceptions to Development Standards	A variation to development standards is not required as part of the modification as a variation to the development standards is not proposed.
Clause 5.10 – Heritage Conservation	The proposal is not identified as an item of environmental heritage nor is it located within a Heritage Conservation Area (HCA).
Clause 7.5 – Protection of Scenic Character and Landscape Values	The design and appearance of the proposed development will remain the same as approved under DA-18/1114 and therefore, minimal visual impacts as a result of the development will occur.
Clause 7.6 – Salinity	The intentions of the Contamination and Salinity report which accompanied DA-18/1114 will not be jeopardised as a result of the proposal, considering the minor works proposed as part of the modification. Therefore, further consideration in this regard is not required.

5. NON-STATUTORY PLANNING FRAMEWORK

5.1 Penrith Development Control Plan 2014

The Penrith Development Control Plan 2014 (PDCP 2014) to be read and applied in retrospect to the PLEP 2010, for which, if there is any inconsistency between the two (2), the LEP would prevail over the DCP.

The proposed modification is generally consistent with the relevant PDCP 2014 controls. Refer to **Section 6.1** providing a detailed assessment of the applicable PDCP 2014 car parking rate within the context of the proposed modification.

6. LIKELY IMPACTS OF DEVELOPMENT

The key planning matters for consideration, as they relate to the modified proposal are addressed in the ensuing subsections.

6.1 Traffic and Parking

No changes in terms of traffic and parking will present as a result of the proposal. Refer to the Addendum Traffic Assessment which provides a detailed assessment of the applicable PDCP 2014 car parking rate within the context of the proposed modification.

The Addendum Traffic Assessment provides the following details in relation to the previously approved **DA-18/1114**:

'It should be noted that the existing development has been approved with a parking yield that does not meet the requirements of the Penrith City Council's DCP 2014 Section C10, which nominally requires parking provision for 'warehouses or distribution centres, including ancillary office' at the rate of:

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- *1 space per 100 m² GFA.*

Adoption of this rate indicated a requirement of approximately 500 car spaces to which, for the purposes of the development, over-estimated the perceived parking demand for the site.

To support a more conservative parking provision, the approved DA traffic report referenced the previously conducted parking surveys of eight comparable industrial developments. The surveyed locations included sites in Erskine Park, Oakdale Central and the M7 Business Hub. The results of this parking assessment indicate that the provision of 98 on-site parking spaces was sufficient to provide for the anticipated and future tenancies of the site.

However, as the approved DA provides less parking spaces than the PDCP 2014 requirements, this has triggered the need for further assessment accompanying a Section 4.55 Modification submission.'

The Addendum Traffic Assessment details that there will be no material traffic impact as a result of the proposed modification. It also details that as there will be no change in approved GFA or parking spaces, the modification would not warrant additional parking spaces to be required, as the PDCP 2014 specified parking rate for 'warehouses or distribution centres, including ancillary office' is already inclusive of ancillary office space. It also states that, 'given the relatively small floor area, the Modification would not have any material impact to the approved parking provision outlined in the original traffic report supporting the approved DA'.

In this regard, the proposed modification will have no impact on traffic and does not warrant the need for additional parking spaces.

6.2 Waste

The proposed modifications would not generate additional waste streams at the Site, which have not already been considered as part of **DA-18/1114**. Where possible all construction materials would be recycled either on-site through reuse or offsite at a licenced facility. Waste would be transported and disposed of off-site by a licenced contractor to a licensed landfill facility.

Therefore, the waste generated as part of any proposed demolition/construction and the continued operation of the Site will remain unchanged as a result of the proposed modification and therefore, the mechanisms outlined as part of the Waste Management Plan (prepared by Willowtree Planning), submitted as part of **DA-18/1114** will remain valid.

6.3 Construction

All works on the Site would be carried out in accordance with the conditional requirements of any consent issued in response to this Modification Application. Appropriate measures would be undertaken to mitigate potential impacts from the proposed modifications, including dust, noise, odours and traffic impacts.

6.4 Cumulative Impacts

No foreseeable cumulative impacts would be anticipated as a result of the proposed modifications sought. Rather, the proposed modifications would remain substantially the same development with respect to what was previously approved under **DA-18/1114** within an area zoned IN1 General Industrial – which, is commensurate with the intended development of the Site and its surrounds.

6.5 Suitability of the Site for Development

The proposed modifications are considered minor in nature and thus remain compliant with the relevant standards and controls listed under PLEP 2010 and the PDCP 2014. Furthermore, the outcomes of the proposed development would remain generally consistent with the original approval.

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6.6 Any Submissions made in accordance with the Act

Should any submissions be received in relation to the proposed development, the applicant is happy to address these.

6.7 The Public Interest

The proposed modifications would have no adverse impact on the public interest.

6.8 SUITABILITY OF THE SITE FOR DEVELOPMENT

The proposed modifications are considered minor in nature and thus remain compliant with the relevant standards and controls listed under PLEP 2010 and the PDCP 2014. Furthermore, the outcomes of the proposed development would remain generally consistent with the original approval.

7. CONCLUSION

The proposal has been prepared taking into consideration the following key matters:

- The development history of the Site;
- Previously approved development in relation to **DA-18/1114**;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.55(1A) of the EP&A Act; and
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments.

The proposed modifications to Development Consent **DA-18/1114** are considered to be of minor environmental impact, given the extent of changes proposed to the approved development. The development as modified is substantially the same as the original approval, and it is therefore considered that the proposal should be supported on the basis that:

- There are no undue amenity impacts associated with the proposed amendments;
- The proposed changes will be contained to be located wholly within the Site and approved warehouse; and
- The revised scheme provides for optimal and safer functionality for the end users involved.

Furthermore, the proposed modifications would have no undue impact on the public interest; therefore, based on the above stipulations, the modifications proposed to Development Consent **DA-18/1114** are considered worthy of support by Penrith City Council.

Should you require additional information, please do not hesitate to contact the undersigned.

Yours Faithfully,



Andrew Cowan
Director
Willowtree Planning Pty Ltd
ACN 146 035 707

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Appendix 1

Development Consent DA-18/1114 – Notice of Determination

Section 4.55(1A) Application

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Appendix 2
Stamped Approved Plans

Section 4.55(1A) Application

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Appendix 3
Survey Plan

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Appendix 4
Proposed Architectural Plans

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Appendix 5
Addendum Traffic and Parking Assessment