

WILLOWTREE PLANNING



19 October 2023

Ref: WTJ23-313
Contact: Kyrie Ng

Northern Beaches Council
PO Box 82 Manly NSW 1655 Australia

Via NSW Planning Portal

SECTION 4.55(1A) APPLICATION FOR MODIFICATION OF DA2023/1170 FOR AN APPROVED SIGNAGE PANEL

PROPERTY AT: 4 - 8 INMAN ROAD, CROMER NSW 2099 (LOT 1 DP 1282038)

Dear Sir/Madam,

Reference is made to development consent **DA2023/1170** granted on 16 October 2023 for the development of a signage panel at 4 - 8 Inman Road, Cromer, more formally described as Lot 1 DP 1282038 (Site).

1. INTRODUCTION

This statement has been prepared in support of Section 4.55(1A) Modification Application (MA) submitted to Northern Beaches Council, seeking to modify development consent **DA2023/1170 (Attachment 1)** which was granted for *signage, alteration to glazing and enclosing work*.

This application is made pursuant to **Section 4.55(1A)** of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), on behalf of Bounce Inc. The following supporting documentation has been provided as part of this application:

- **Attachment 1: Development Consent (DA2023-1170)**
- **Attachment 2: Stamped Plan (DA2023-1170)**
- **Attachment 3: Revised Signage Plan**
- **Attachment 4: SEPP and DCP Assessment**

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2. DEVELOPMENT HISTORY

sets out the recent development history at the Site.

TABLE 1. EXISTING CONSENTS		
DA Reference	Summary	Approval Date
DA2023/1170	<i>Proposed signage, alteration to glazing and enclosing work.</i>	16/10/2023
DA2023/0294	<i>Use - Change of use and fitout of Warehouse 7 and 8 for the purpose of an indoor recreation facility</i>	18/7/2023
Mod2022/0722	<i>Section 4.55 (1a) Minor Environmental Impact - Modification of Development Consent DA2021/2608 granted for Use of Premises (Warehouse 1) as an Indoor Recreation Facility (swim school), internal fit-out, reconfiguration of car parking and signage</i>	27/02/2023
DA2022/1807	<i>New - Change of use and fitout of Warehouse 11 for the purpose of a golf facility (indoor recreation facility)</i>	30/01/2023
Mod2022/0452	<i>Section 4.55 (1a) Minor Environmental Impact - Modification of Development Consent 2019/1346 granted for Demolition works and alterations and additions to an existing industrial facility including new warehouse and self-storage office premises and ancillary cafe</i>	15/12/2022
Mod2022/0396	<i>Section 4.55 (1a) Minor Environmental Impact - Modification of Development Consent 2019/1346 granted for Demolition works and alterations and additions to an existing industrial facility including new warehouse and self-storage office premises and ancillary cafe</i>	16/11/2022
DA2023/0807	<i>Alterations and additions to commercial developmt - Child Care Centre</i>	Not provided
DA2019/1346	<i>New - Demolition works and alternations and additions to an existing industrial facility, including new warehouse, and self-storage, office premises and ancillary café.</i>	17/08/2020

DA2019/1346 is the principal development consent of Northern Beaches Business Park, which comprises new warehouses tenancies, and self-storages, office premises and ancillary café. Of note, the buildings are currently under construction.

Subsequently, **DA2023/0294** seeks consent for the change of use and fitout of Warehouses 7 and 8 at the Site, for the purpose of a trampoline facility (indoor recreation facility) operated by Bounce Inc.

DA2023/1170 seeks consent for signage, alteration to glazing and enclosing work for the trampoline facility. Accordingly, the proposed modification is for relocation of the approved business identification signage panel works under **DA2023/1170**.



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3. SITE LOCATION AND CHARACTERISTICS

The Site is identified as 4-8 Inman Road, Cromer, which is legally described as Lot 1 DP 1282038. It is located within the suburb of Cromer which forms a part of Northern Beaches Local Government Area (LGA). The Site exhibits an irregular shape with an approximate area of 3.67ha. The Site is bound by South Creek Road to the south and Inman Road to the west. The north-western corner of the Site is bound by Orlando Road, which connects to Parkes Road. The Site also has frontage to Campbell Avenue. The remainder of the Site shares a common boundary with existing residential dwellings and childcare centre to the north.

Located twenty (20) kilometres from Sydney CBD, the Site is within the Cromer Industrial Precinct, close to the Northern Beaches Hospital, the B-line bus network, and the Beaches Link Tunnel project. It is also proximate to the Dee Why Town Centre which is undergoing significant urban renewal.

The Site currently comprises Northern Beaches Business Park operated by EG. It includes 11 warehouse units and 4 office units for lease. Of note, the buildings are currently under construction.

Figure 1 sets out the cadastral boundary for the Site and **Figure 2** is an aerial image of the Site.



Figure 1. Cadastral Map (Source: SIX Maps, 2023)





Figure 2. Aerial Map (Source: Near Maps, 2023)

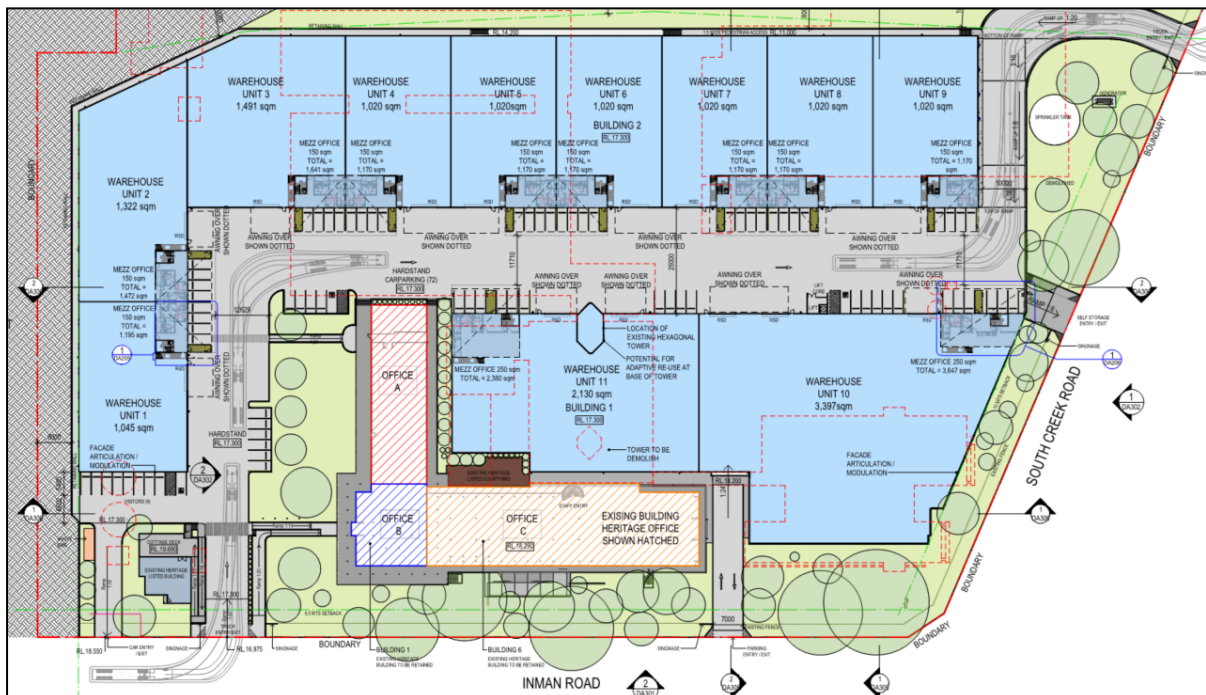


Figure 3. Stamped Plan - DA2019/1346 (Source: EG, 2023)

4. PROPOSED MODIFICATIONS

The proposed modification seeks to relocate the approved signage panel at the North Elevation towards Warehouse 9. Refer to **Figure 4** below.

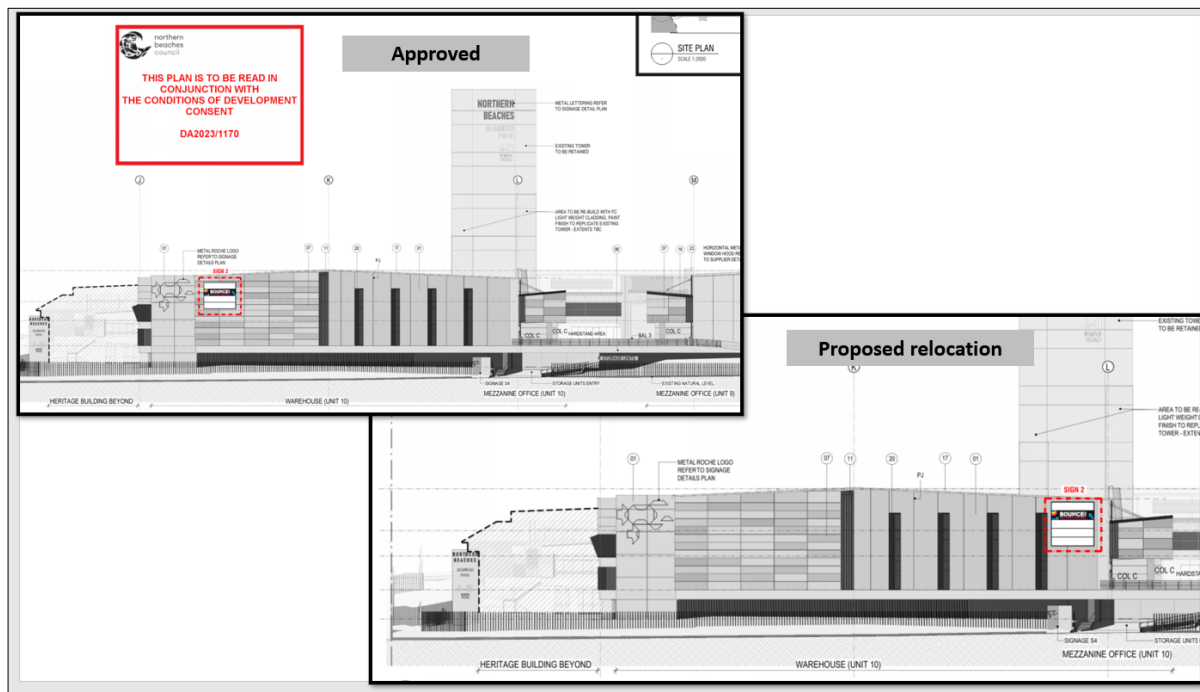


Figure 4. Proposed Modification (Source: 2M Creative, 2023)

The modified panel would be approx. 4.26m² larger than the approved panel in order to accommodate one (1) more business identification signage. Of note, the design and material of the remains identical.

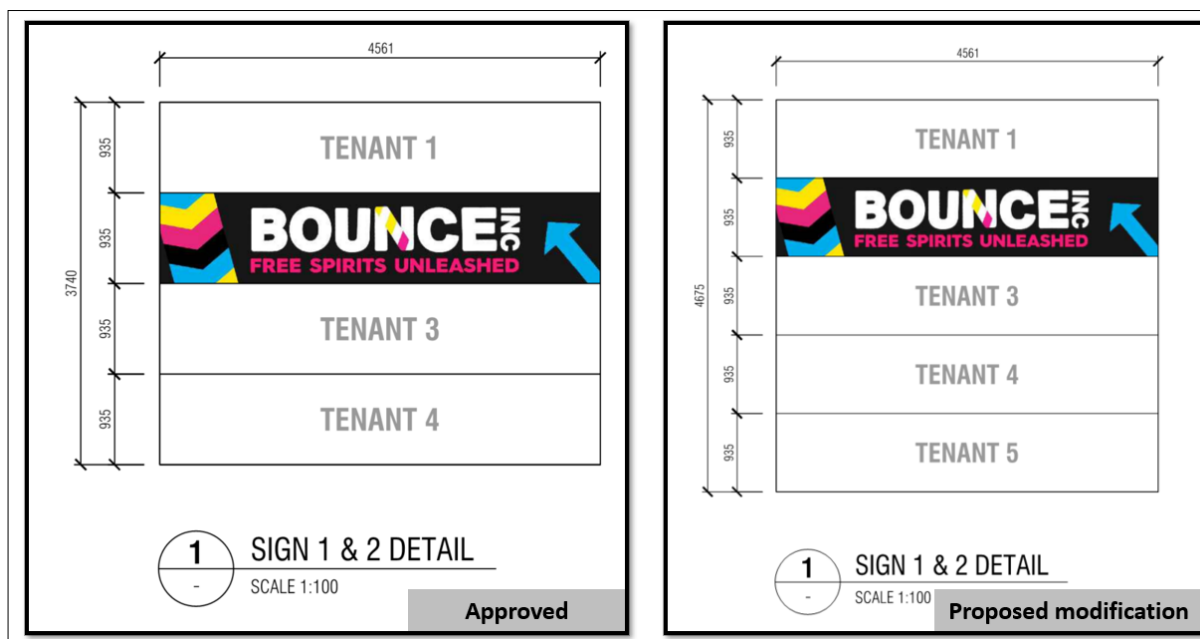


Figure 5. Proposed Modification (Source: 2M Creative, 2023)



5. AMENDED DEVELOPMENT CONSENT

The desired development outcome as outlined above requires the following modifications to development consent **DA2023/1170**:

The proposed amendments are demonstrated in **red**, with deletions as a **strikethrough** and additions as **underlined**.

Planning Condition (1)

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

<i>Approved Plans</i>				
<i>Plan Number</i>	<i>Revision Number</i>	<i>Plan Title</i>	<i>Drawn By</i>	<i>Date of Plan</i>
S-100	C D	Signage Plan	2M Creative	12 July 2023 <u>16 August 2023</u>
S-101	C D	Signage Plan	2M Creative	12 July 2023 <u>16 August 2023</u>

<i>Approved Reports and Documentation</i>			
<i>Document Title</i>	<i>Version Number</i>	<i>Prepared By</i>	<i>Date of Document</i>
Waste Management Plan	--	Guy Mathews	Undated

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

A revised signage plan (**Attachment 3**) is submitted to accompany this modification application, which aims to supersede the stamped plan (**Attachment 2**). Of note, no modification is sought to the approved works at the shop front of Warehouse 7 and 8.

6. STATUTORY PLANNING FRAMEWORK

6.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principal planning and development legislation in New South Wales. Pursuant to Part 4, the Proposal is considered local development to be determined by Northern Beaches Council. The modifications sought to the development consent **DA2023/1170** warrants consideration of the provisions of Section 4.55(1A) of the EP&A Act. The provisions of Section 4.55 of the EP&A Act provided in **TABLE 2** below require consideration in this instance.

TABLE 2. SECTION 4.55(1A) ASSESSMENT

Clause	Response
(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



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TABLE 2. SECTION 4.55(1A) ASSESSMENT

Clause	Response
<i>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>	The proposed modification seeks relocation of an approved signage panel which would not result in any further environmental impacts.
<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 consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	As demonstrated in Section 6.1.1 .
<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>	Council will exhibit the proposed modification, if required, in accordance with the exhibition procedures.
<i>(d) 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>	It is acknowledged that Council must consider any submissions received, concerning the proposed modifications.
<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>	The proposed modifications are consistent with the matters referred to in Section 4.15(1) of the EP&A Act. Refer to Section 6.1.2 of this statement.

6.1.1. Section 4.55(1A) – 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 **DA2023/1170** for the following reasons:

- There are no structural works sought to the building as part of this modification;
- No additional panel is proposed;
- The modified panel would be displayed in the same elevation;
- The purpose of the modified panel remains as business identification signage for the representation of future tenants.



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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*.

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”, providing 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, qualitatively, as well as quantitatively, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).

The Proposal does not result in any significant quantitative changes to the approved development, and from a qualitative perspective, the development retains its purpose for the representation for Bounce Inc. The proposed relocation would not result in any impacts to the current construction or ongoing operation of the buildings at the Site.

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.

6.1.2. Section 4.15 – Reasons given by the consent authority for the grant of the consent

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **TABLE 3** below.

TABLE 3. SECTION 4.15(1)(A) CONSIDERATIONS	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	Refer to Section 0 of this statement.
Section 4.15(1)(a)(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	There are no applicable draft instruments for consideration.
Section 4.15(1)(a)(iii) any development control plan, and	Refer to Section 7.1 of this statement.
Section 4.15(1)(a)(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	Not applicable.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Refer to Section 6.2 of this statement.
Section 4.15(1)(b)-(c)	Refer to Section 8 of this statement.



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6.1.3. Section 4.46 – Integrated Development

Section 4.46 of the EP&A Act defines ‘integrated development’ as matters which require consent from Council and one or more authorities under related legislation. In these circumstances, prior to granting consent, Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development. The proposed modification is not integrated development.

6.2. Environmental Planning & Assessment Regulation 2021

This application has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).

6.2.1. Schedule 3 – Designated Development

Section 4(1) of the EP&A Regulation states that any development described in Part 2 of Schedule 3, would be declared to be Designated Development for the purposes of the EP&A Act. The proposed modification to the permitted occupation does not trigger the relevant thresholds and is therefore not considered ‘Designated Development’.

6.3. Local Planning Context

6.3.1. Warringah Local Environmental Plan 2011

The Site is zoned E4 General Industrial pursuant to the WLEP2011. The existing use of the premises is approved under **DA2019/1346** and **DA2023/0294**. The Proposal does not seek any change of use of the premises.

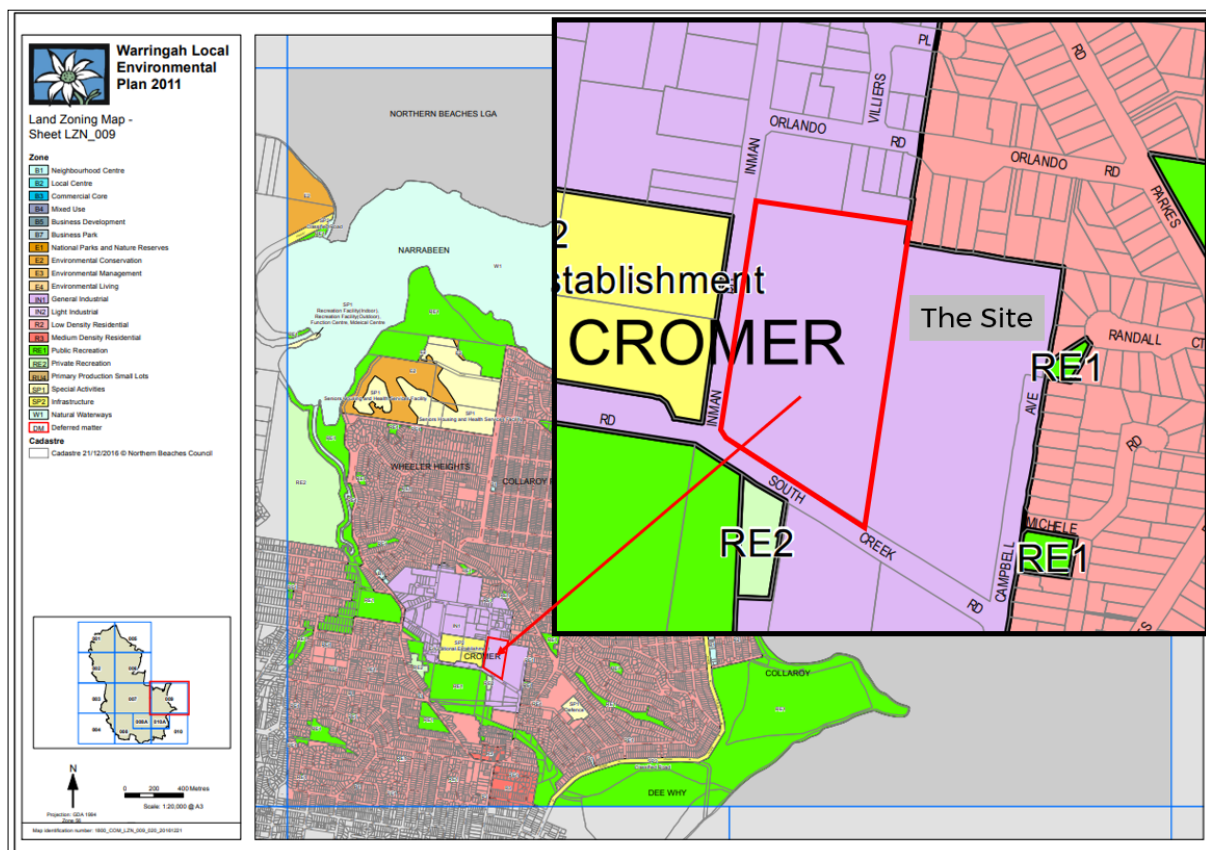


Figure 6. WLEP2011 Zoning Map (Source: NSW Legislation, 2023)

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Within the E4 General Industrial zone, the following development is permitted with consent:

- *Depots; Freight transport facilities; Garden centres; **General industries**; Goods repair and reuse premises; Hardware and building supplies; Horticulture; Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Local distribution premises; Neighbourhood shops; Oyster aquaculture; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; **Warehouse or distribution centres**; Water supply systems; **Any other development not specified in item 2 or 4***

TABLE 4 outlines the developments consistency and compliance with the relevant development standards and controls under the WLEP2011. The proposed modification does not impact on the WLEP2011 controls as set out below. The development would not impact on the FSR, height control or minimum lot size controls.

TABLE 4. DEVELOPMENT STANDARDS	
Clause	Comment
Clause 4.1 – Minimum Lot Size	The Site is subject to a minimum lot size of 4000 m ²
Clause 4.3 – Height of Buildings	The Site is subject to a maximum building height of 11m.
Clause 5.10 – Heritage	<p>2 Local Heritage Items are located within the Site. They include:</p> <ul style="list-style-type: none">▪ Roche Building (number: I52); and▪ Street Trees (number: I53) <p>However, the proposed panel is not installed on the heritage buildings and it is unlikely to result in amenity impacts to the heritage items.</p>

6.3.2. Statement of Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 of *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP) applies to the proposed signage. An assessment of the Proposal against the relevant sections of the (Industry and Employment SEPP) is provided at **Attachment 4**. The proposed modification is considered to be consistent with the provisions of the Industry and Employment SEPP and is acceptable in this regard.

7. NON-STATUTORY PLANNING FRAMEWORK

7.1. Warringah Development Control Plan 2011

The *Warringah Development Control Plan* (WDGP2011) supplements WLEP2011 and provides more detailed provisions to guide development. An assessment against relevant provisions is provided in **Attachment 4**. The proposed modification is considered to be consistent and is acceptable in this regard.



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8. LIKELY IMPACTS OF DEVELOPMENT

8.1. Impact on Surrounding Development

The proposed modification will have no material impact on the Site and surrounding area which is an established industrial area. No alterations are proposed to the approved building which would give rise to amenity impacts at the Site.

8.2. Other Matters for Consideration

All other matters for consideration have been previously assessed as part of **DA2023/1170** and remain unaffected by the proposed modifications.

8.3. Suitability of Site for Development

The Site will predominantly remain suitable as warehouse / general industrial use. The proposed modification is commensurate with the characteristics of the Site and surrounding locality.

8.4. Submissions

No submissions have been received at the time of writing this statement. Any submissions received post lodgement shall be reviewed and considered.

8.5. The Public Interest

The development as modified would have no adverse impact on the public interest. The proposed modifications would improve the functionality and operation of the Site with no adverse visual or amenity impacts for neighbouring properties or the public domain.

9. CONCLUSIONS

This application seeks consent for modifications to development consent **DA2023/1170**, pursuant to Section 4.55(1A) of the EP&A Act. The Proposal has been prepared after taking into consideration the following key issues:

- Development history of the Site;
- Development Consent **DA2023/1170**;
- Site context and locality;
- Relevant heads of consideration under Section 4.55(1A) of the EP&A Act; and
- Relevant statutory and non-statutory planning instruments.

The proposed modifications are considered acceptable, and worthy of support by Northern Beaches Council, for the following reasons:

- It maintains compliance with the key development standards contained within the WLEP2011;
- There is no structural modification sought as part of this modification;
- No additional panel is sought;
- The modified panel would be displayed at the same elevation;
- The design and materials of the modified panel would remain identical with the approved panel;
- The development, as modified, will remain substantially the same as a business identification signage.



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In light of the above, the modifications proposed to development consent **DA2023/1170** are considered worthy of support by Northern Beaches Council.

Should you require additional information, please do not hesitate to contact Kyrie Ng via email at kng@willowtp.com.au.

Yours sincerely,



Chris Wilson
Managing Director
Willowtree Planning Pty Ltd

