



7 July 2023

Ref: WTJ23-323
Contact: A Cowan

The General Manager
Northern Beaches Council
PO Box 82
Manly NSW 1655

Via NSW Planning Portal

**SECTION 4.55(1A) APPLICATION FOR MODIFICATION OF DA2019/1346
APPROVED DEMOLITION WORKS AND ALTERATIONS AND ADDITIONS TO AN EXISTING INDUSTRIAL
FACILITY, INCLUDING NEW WAREHOUSE, AND SELF-STORAGE, OFFICE PREMISES AND ANCILLARY
CAFÉ.**

4 - 8 Inman Road, Cromer (LOT 1 DP 128038)

Dear Sir/Madam,

Reference is made to development consent **DA2019/1346** granted on 17 August 2020 for the alterations and additions to an existing industrial facility at 4 - 8 Inman Road, Cromer, more formally described as Lot 1 DP 1220196 (Subject Site).

1. INTRODUCTION

This statement has been prepared in support of a Section 4.55(1A) Modification Application (MA) submitted to Northern Beaches Council, seeking to modify to development consent **DA2019/1346** which granted consent for:

Demolition works and alterations and additions to an existing industrial facility, including new warehouse, and self-storage, office premises and ancillary café.

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

- **Appendix 1 - Staging Plan**

The overall intent of the proposed modifications is to defer the registration of the café until such time as a construction certificate and subsequent occupation certificate are issued for the associated fitout of the part of the development. At present, there is no known operator for the café and hence the fitout and specific details in that regard are not known, thus it is not possible to register it in accordance with condition 70.

This MA constitutes the fourth modification sought to **DA2019/1346**.

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2. PROPOSED MODIFICATIONS

The proposed modification seeks consent to amend condition 70 to defer the registration of the café (food business) until such time as the fit out is complete. At present there is no known operator for the café, hence it is not appropriate to seek registration of it. The condition as presently worded precludes the occupation certificate from being issued for the broader development, hence the amendment is required.

3. AMENDED DEVELOPMENT CONSENT

The desired development outcome as outlined above requires the following modifications to development consent **DA2019/1346**.

The proposed amendments are demonstrated in red.

4.1 Proposed Conditions

70. Registration of Food Business

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued in connection with the construction certificate for the fit out for the café.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

It is also proposed that a new amended plan be introduced to show this future staging, therefore condition 1 is to be amended to reference the plan shown at **Appendix 1**.

4. STATUTORY PLANNING FRAMEWORK

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, the proposal is local development. The modifications sought to the development consent **DA2019/1346** 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 1** below require consideration in this instance.

TABLE 1. SECTION 4.55(1A) 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>	The proposed modification will result in the same ultimate development outcome to that previously approved. The main modification sought relates deferring registration of the café until such time as an operator is known.
<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 above.
<i>(c) it has notified the application in accordance with—</i>	The application will not be re-notified given the limited scope of change proposed.



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<p>(i) the regulations, if the regulations so require, or</p> <p>(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</p>	
<p>(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.</p>	<p>It is acknowledged that Council must consider any submissions received, concerning the proposed MA. However it is noted public notification is not required.</p>
<p>(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.</p>	<p>The proposed modifications are consistent with the matters referred to in Section 4.15(1) of the EP&A Act.</p>

4.1.2 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 2** below.

TABLE 2. SECTION 4.15(1A) CONSIDERATIONS	
Section	Response
<p>Section 4.15(1)(a)(i) any environmental planning instrument, and</p>	<p>Refer to Section 4.4 of this statement.</p>
<p>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</p>	<p>There are no applicable draft instruments for consideration.</p>
<p>Section 4.15(1)(a)(iii) any development control plan, and</p>	<p>Refer to Section 5.1 of this statement.</p>
<p>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</p>	<p>Not applicable.</p>
<p>Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</p>	<p>Refer to Section 4.1.4 of this statement.</p>
<p>Section 4.15(1)(b)-(c)</p>	<p>Refer to Section 6 of this statement.</p>

4.1.3 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.

Pursuant to Section 4.46 of the EP&A Act the proposed development does constitute integrated development.



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4.1.4 Environmental Planning and Assessment Regulation 2021

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

4.1.5 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. Further, the proposal is not identified as 'Designated Development' pursuant Schedule 3 of the EP&A Regulation.

4.2 Heritage Act 1997

Given there are no physical design changes proposed to the siting or form of the café, matters for consideration in this respect are not warranted.

4.3 Biodiversity Conservation Act 2016

Given there are no physical design changes proposed to the siting or form of the café that would impact vegetation, matters for consideration in this respect are not warranted.

4.4 Local Planning Context

4.4.1 Warringah Local Environmental Plan 2011

The Site is subject to the provisions of WLEP2011. Relevant permissibility and development standards are summarised in the subsequent sections of this report.

Zoning and permissibility

The Subject Site is zoned E4 General Industrial pursuant to the WLEP2011. The proposal, as modified, is consistent with the objectives of the zone as it will continue to facilitate development of employment generating uses including occupation of the existing office and cafe. Given the minor nature of the changes sought under this application, the proposed modification does not result in any of the objectives of the zone being compromised.

The development will continue to be capable of achieving these objectives to the same capacity as the development approved under **DA2019/1346**.

Development standards

This section provides is a summary of all WLEP2011 provisions, as they apply to the proposed development.



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TABLE 3. DEVELOPMENT STANDARDS	
Clause	Comment
Principle development standards	
Clause 4.1 – Minimum Lot Size	The Subject Site is not restricted to a minimum lot size.
Clause 4.3 – Height of Buildings	The proposed modification does not seek to alter the approved building height.
Clause 4.4 – Floor Space Ratio	The Subject Site is not restricted to a maximum floor space ratio.
Clause 4.6 – Exceptions to development standards	The proposal, as modified, does not seek to contravene any additional development standards.
Clause 5.10 – Heritage	The Subject Site contains three (3) items of heritage, listed under the WLEP2011, however there will be no material impact as a result of this MA.
Clause 6.2 – Earthworks	No earthworks are proposed as part of this modification.
Clause 6.4 – Development of sloping land	The Subject Site is identified as being within 'Areas A, D and E' on Council's Landslip Risk Map. Notwithstanding, the proposed changes sought would have no material impact in this respect.

5 NON-STATUTORY PLANNING FRAMEWORK

5.1 Warringah Development Control Plan 2021

The *Warringah Development Control Plan 2011* (WDCP2011) supplements WLEP2011 and provides more detailed provisions to guide development.

The proposal as modified does not seek to contravene the development controls.

6 LIKELY IMPACTS OF DEVELOPMENT

6.1 Context and Setting

The approved development involves the construction of multi-unit warehouse, self-storage facilities, including ancillary works, and the adaptive re-use of the former Roche office building and heritage cottage.

The proposed changes sought relate to timing of registration of the café only and have no material impact on any built form outcomes.

6.2 Built Form

The proposal, as modified, does not propose any changes to the built form. The changes relate only to the timing of registration of the food business.

6.3 Traffic and Transport

There are no proposed modifications to the current traffic and transport provisions on Site.



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6.4 Heritage

The proposal, as modified, does not propose any changes to the built form. The changes relate only to the timing of registration of the food business.

6.5 Building Code of Australia

The proposal, as modified, does not propose any changes to the built form or BCA outcomes. The changes relate only to the timing of registration of the food business.

6.7 Biodiversity

The proposal, as modified, does not propose any changes to the built form or impact on existing vegetation. The changes relate only to the timing of registration of the food business.

6.8 Stormwater

The proposal will not impact on stormwater management or other civil engineering matters.

6.9 Other Matters for Consideration

All other matters for consideration have been previously assessed as part of **DA2019/1346** and remain unaffected by the proposed modification sought.

6.10 Suitability of Site for Development

The Subject Site will remain suitable for the purpose of light industries that will respond to the characteristics of the site and surrounding locality.

6.11 Submissions

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

6.12 The Public Interest

The development as modified would have no adverse impact on the public interest. The proposed modification sought seeks to maintain the approved development.



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7 CONCLUSION

This application seeks consent for modifications to development consent **DA2019/1346**, 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 Subject Site;
- Development Consent **DA2019/1346**;
- 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:

- The proposed modifications reflect the intention of the original consent to provide adaptive re-use of the office building and café;
- The proposed modifications maintain compliance with the key development standards contained within WLEP2011 and WDCP2011; and,
- The development, as modified, will remain substantially the same, and will not result in additional environmental impacts.

In light of the above, the modifications proposed to development consent **DA2019/1346** are considered worthy of support by Northern Beaches Council.

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

Yours faithfully,



Andrew Cowan
Director
Willowtree Planning Pty Ltd



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Appendix 1 - Development Consent (DA2019/1346)



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Appendix 2 - Staging Plan

