



29 November 2022

Ref: WTJ21-375  
Contact: Jamie Bryant

Tom Prosser  
Northern Beaches Council

Via NSW Planning Portal

**SECTION 4.55(1A) APPLICATION FOR MODIFICATION OF DA2021/2608  
APPROVED USE OF PREMISES (WAREHOUSE 1) AS AN INDOOR RECREATION FACILITY (SWIM  
SCHOOL), INTERNAL FIT-OUT, RECONFIGURATION OF CAR PARKING AND SIGNAGE  
4-10 INMAN ROAD, CROMER (LOT 1 DP 1282038)**

Dear Tom,

Reference is made to development consent **DA2021/2608** granted on 24 June 2022 for the use of Warehouse 1 as an indoor recreation facility (swim school) and associated works at 4-10 Inman Road (also known as 100 South Creek Road), more formally described as Lot 1 in DP 1282038 (the 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 **DA2021/2608 (Appendix 1)** which granted consent for:

*"Use of Premises (Warehouse 1) as an Indoor Recreation Facility (swim school), internal fit-out, reconfiguration of car parking and signage".*

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 Aquatic Achievers Operations Pty Ltd. The following supporting documentation has been provided as part of this application:

- **Appendix 1** Development Consent (**DA2021/2608**)
- **Appendix 2** Updated Architectural Plans (including 'as approved' and 'proposed')
- **Appendix 3** Updated Operational Noise Emission Assessment
- **Appendix 4** Updated Operational Management Plan
- **Appendix 5** Updated BCA Assessment
- **Appendix 6** Updated Cost Summary Report
- **Appendix 7** Updated Owner's Consent

The overall intent of the proposed modifications is to ensure the viable operation of the approved swim school following escalating costs associated with the internal fit-out approved by **DA2021/2608**.

This MA constitutes the first modification sought to **DA2021/2608**.

ACN: 146 035 707 ABN: 54 146 035 707  
Suite 1, Level 10, 56 Berry Street  
North Sydney, NSW 2060

enquiries@willowtp.com.au  
willowtreepanning.com.au  
02 9929 6974



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## 2. SITE LOCATION AND CHARACTERISTICS

The Subject Site is located at 4-10 Inman Road, Cromer, also known as 100 South Creek Road, Cromer. The Subject Site is bound by South Creek Road to the south and Inman Road to the west. The north-western corner of the Subject Site is bound by Orlando Road, which connects to Parkes Road. The Subject Site also has frontage to Campbell Avenue. The remainder of the Subject Site shares a common boundary with existing residential dwellings and childcare centre to the north.

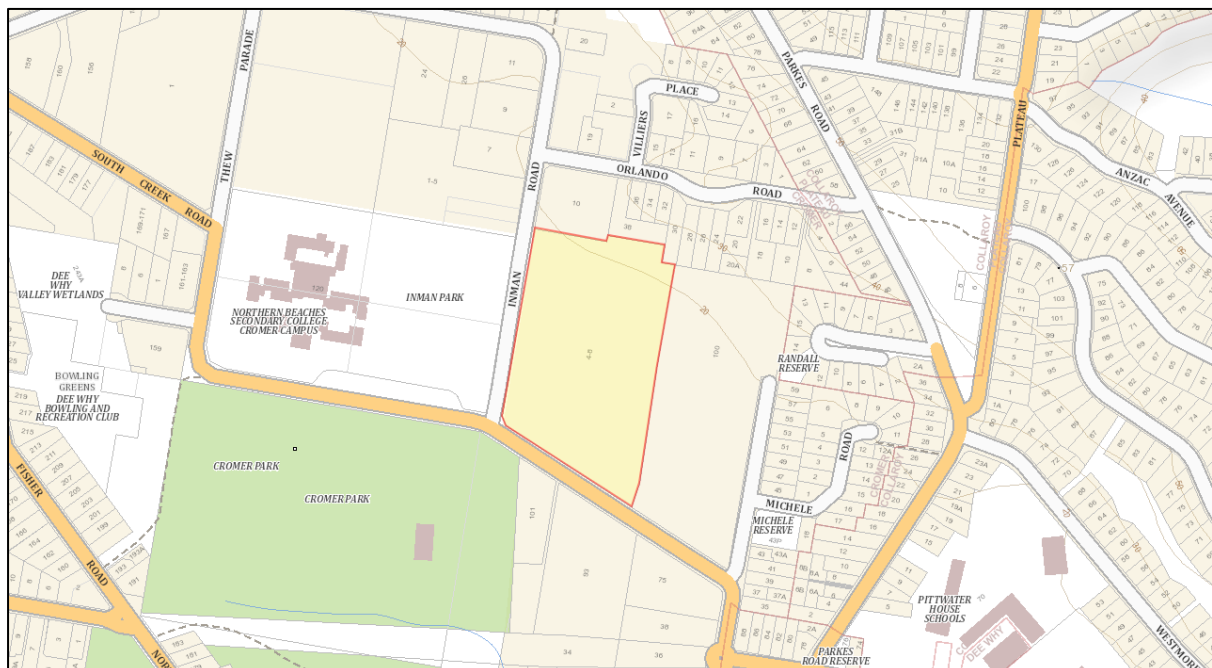
The Subject Site is zoned IN1 General Industrial, pursuant to the WLEP2011 and includes mostly office buildings and large warehouse/manufacturing buildings. Zones surrounding the Subject Site include RE1 – Public Recreation, RE2 – Private Recreation, SP2 – Infrastructure, and R2 – Low Density Residential.

Located 20km from the Sydney CBD, the Subject 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 near to the Dee Why Town Centre, which is undergoing significant urban renewal.

The Subject Site has been significantly developed and includes a variety of buildings and structures, ranging in age from the 1920s through to 2006, with works commenced to facilitate the redevelopment works approved in 2020. Three (3) separate heritage listings apply to the Subject Site, under the WLEP 2011, being; Item 52: 'Roche Building'; Item 53: 'Givaudan-Roure Office'; and Item 38: 'Trees'.

The proposed development pertains to Warehouse 1 that was approved under **DA2019/1346** as part of the Northern Beaches Business Park and is located in the northwest portion of the Site along Inman Road.

The existing Site characteristics are depicted in **Figures 1 and 2** below.



**Figure 1. Cadastral Map** (Source: SIX Maps, 2022)

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**Figure 2. Aerial Map** (Source: Near Map, 2022)

### 3. PROPOSED MODIFICATIONS

The proposed modification seeks to delete the small internal swimming pool and relocate the mechanical room for the air handling system from the mezzanine to the subsequent space at ground floor.

The following table provides a comparison of the development parameters that are sought to be modified as part of this MA.

TABLE 1. DEVELOPMENT COMPARISON		
Aspect of Development	Approved	Proposed
Ground Floor Area	947m <sup>2</sup>	947m <sup>2</sup>
Mezzanine Area	142m <sup>2</sup>	142m <sup>2</sup>
Total Gross Floor Area	1,089m <sup>2</sup>	1,089m <sup>2</sup>
Building Height	No change - internal fit-out of Warehouse 1 only	No change - internal fit-out of Warehouse 1 only
Car Parking	35 spaces: <ul style="list-style-type: none"><li>31 allocated within the basement level</li><li>4 re-located spaces proposed adjacent to the subject tenancy</li></ul>	35 spaces: <ul style="list-style-type: none"><li>31 allocated within the basement level</li><li>4 re-located spaces proposed adjacent to the subject tenancy</li></ul>
Signage	One (1) business identification sign	One (1) business identification sign
Capital Investment Value (CIV) Estimate	\$2,298,090.86	\$4,469,772.09
Hours of Operation	06:30 - 21:00, 7 days per week	06:30 - 21:00, 7 days per week

The proposed modifications are sought in response to cost escalations rendering the as approved development financially unviable.



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### 4. AMENDED DEVELOPMENT CONSENT

The desired development outcome as outlined above requires the following modifications to development consent **DA2021/2608**.

The proposed amendments are demonstrated in blue, with deletions as a ~~striketrough~~ and additions as underlined.

#### 4.1 Proposed Conditions

##### 1. Approved Plans and Supporting Documentation

*The development must be carried out in compliance (except as amended by any other condition of consent) with the following:*

a) *Approved Plans:*

Drawing Title	Drawing No.	Revision	Dated
Site Plan	DA100	B	08.12.2021
Basement Parking	DA110	B	08.12.2021
Ground Floor Plan	<del>DA200</del> 1.101	<del>J</del> N	<del>18.01.2022</del> 20.07.2022
Mezzanine Floor Plan	<del>DA200</del> 1.102	<del>E</del> J	<del>18.01.2022</del> 20.07.2022
Roof Plan	DA210	D	08.12.2021
Elevations	DA300	J	14.01.2022
Sections	<del>DA350</del> 1.300	<del>E</del> J	<del>07.12.2021</del> 20.07.2022
<u>Sections 2</u>	<u>1.301</u>	<u>E</u>	<u>20.07.2022</u>

##### 7. Acoustic Design Recommendations

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that design recommendations within Section 5 of the document "Operational Noise Emission Assessment - Proposed Swim School - Warehouse 1 / 100 South Creek Rd, Cromer, NSW" by Acoustic Dynamics dated ~~22 December 2021 (Reference 5319R001.LB.211213)~~ 25 November 2022 (Reference 5319R002.LB.221124) have been implemented / incorporated into the design of the premises.

##### 14. Acoustic Controls

All items within Section 5 of the document "Operational Noise Emission Assessment - Proposed Swim School - Warehouse 1 / 100 South Creek Rd, Cromer, NSW" by Acoustic Dynamics dated ~~22 December 2021 (Reference 5319R001.LB.211213)~~ 25 November 2022 (Reference 5319R002.LB.221124) must be maintained in perpetuity.

##### 19. Acoustic Assessment of Design Construction

Prior to the issuing of any Occupation Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that all items within Section 5 of the document "Operational Noise Emission Assessment - Proposed Swim School - Warehouse 1 / 100 South Creek Rd, Cromer, NSW" by Acoustic Dynamics dated ~~22 December 2021 (Reference 5319R001.LB.211213)~~ 25 November 2022 (Reference 5319R002.LB.221124) have been completed.





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## 5. STATUTORY PLANNING FRAMEWORK

### 5.1 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 **DA2021/2608** 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
<i>(1A) <b>Modifications involving minimal environmental impact</b> 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>	<p>The proposed modification will result in the same ultimate development outcome to that previously approved. The main modification sought relates to the reconfiguration of internal elements only.</p> <p><b>Section 5.1.1</b> of this statement demonstrates that the development as modified would result in substantially the same development as the development for which consent was granted under <b>DA2021/2608</b>.</p>
<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>	<p>As above.</p>
<i>(c) it has notified the application in accordance with—</i> <ul style="list-style-type: none"><li><i>(i) the regulations, if the regulations so require, or</i></li><li><i>(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></li></ul>	<p>The Northern Beaches Community Participation Plan lists circumstances where DA exhibition is not required, which includes:</p> <p><i>"modification of consent to correct a minor error, misdescription, miscalculation (e.g. Section 4.55(1) applications); or <b>where, in the opinion of Council, such changes would not unreasonably cause an environmental impact, or which result in a lesser or reduction of, environmental impacts (e.g. Section 4.55(1A) applications</b>".</i></p> <p>The modifications sought to <b>DA2021/2608</b> are for internal modifications only and fall within the parameters of the previous assessment.</p>
<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>	<p>As above.</p>



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(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 proposed modifications are consistent with the matters referred to in Section 4.15(1) of the EP&A Act.

Refer to **Section 5.1.2** of this statement.

### 5.1.1 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 proposed modifications seek internal modifications only and comprise deleting the approved small internal swimming pool, relocating the mechanical plant from the mezzanine to ground floor, together with consequential amendments to conditions 7, 14 and 19 to correct subsequent minor inconsistencies. No material changes beyond the development parameters approved by **DA2021/2608** are sought.

In addition:

- The modification would not alter the approved description of development for “Use of Premises (Warehouse 1) as an Indoor Recreation Facility (swim school), internal fit-out, reconfiguration of car parking and signage”;
- There would be no detrimental quantitative changes to the approved built form that would alter the environmental impact of the proposed development (as modified); and
- The function, form, operations and importantly, public perception of the subject site would be maintained by the proposed modification, which seeks only an internal reconfiguration of the approved fit-out to ensure the viable operation of the approved swim school.

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 identity as an Indoor Recreation Facility (swim school).



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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.

### 5.1.2 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 <b>Section 5</b> 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 <b>Section 6.1</b> of this statement.
Section 4.15(1)(a)(iii) 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 <b>Section 0</b> of this statement.
Section 4.15(1)(b)-(c)	Refer to <b>Section 7</b> of this statement.

Pursuant to Section 4.5 of the EP&A Act, the consent authority for the proposed development is Northern Beaches Council.

It is noted that the proposed development as modified does not trigger Integrated Development pursuant to Section 4.6 of the EP&A Act.

### 5.2 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). Division 1 of Part 3 of the EP&A Regulation stipulates how a DA must be “made”. This Application satisfies the relevant criteria of the Regulation as follows:



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<b>TABLE 4. HOW THE DA IS MADE</b>	
<b>Considerations</b>	<b>Response</b>
<b>Division 1 – Making development applications</b>	
<i>Section 23 – Persons who may make development applications</i>	
<p>(1) <i>A development application may be made by—</i></p> <p>(a) <i>the owner of the land to which the development application relates, or</i></p> <p>(b) <i>another person, with the consent of the owner of the land.</i></p>	<p>This MA is made by Aquatic Achievers Operations Pty Ltd.</p> <p>The owner of the land has provided consent in accordance with Clause 23(1) of the EP&amp;A Regulation to allow for the DA to be made.</p>
<i>Section 24 – Content of development applications</i>	
<p>(1) <i>A development application must—</i></p> <p>(a) <i>be in the approved form, and</i></p> <p>(b) <i>contain all the information and documents required by—</i></p> <p>(i) <i>the approved form, and</i></p> <p>(ii) <i>the Act or this Regulation, and</i></p> <p>(c) <i>be submitted on the NSW planning portal.</i></p>	<p>The MA includes all relevant information including details of the development, address and formal particulars, estimated cost of development, owner's consent, supporting documents including detailed plans and Modification Statement.</p> <p>This MA is submitted via the NSW planning portal.</p>
<i>Section 25 – Information about concurrence or approvals</i>	
<p><i>A development application must contain the following information—</i></p> <p>(a) <i>a list of the authorities –</i></p> <p>(i) <i>from which concurrence must be obtained before the development may lawfully be carried out, and</i></p> <p>(ii) <i>from which concurrence would have been required but for the Act, section 4.13(2A) or 4.41,</i></p> <p>(b) <i>a list of the approvals of the kind referred to in the Act, section 4.46(1) that must be obtained before the development may lawfully be carried out.</i></p>	Not Applicable

Further, the application does not trigger 'Designated Development' pursuant to Schedule 3 of the EP&A Regulation.

**5.3 Warringah Local Environmental Plan 2011**

The site is subject to the provisions of WLEP 2011. Relevant permissibility and development standards are summarised in the subsequent sections of this report.

**5.3.1 Zoning and permissibility**

The subject site is zoned IN1 General Industrial pursuant to the WLEP 2011.

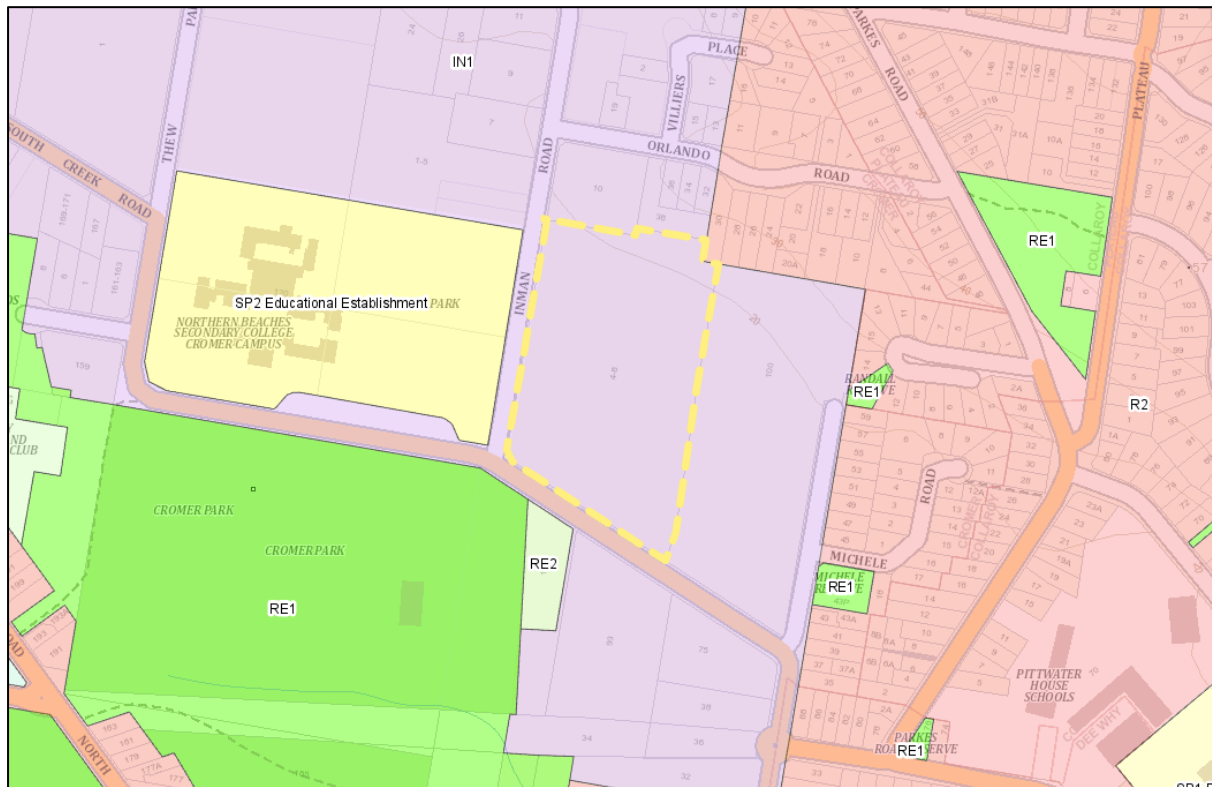




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**Figure 3. WLEP2011 Zoning Map** (Source: NSW Legislation, 2022)

The objectives and permitted land uses within the IN1 zone include:

TABLE 5. ZONE OBJECTIVES AND PERMITTED LAND USE	
Requirement	Application to the Site
<b>IN1 General Industrial</b>	
1. Zone Objectives	<ul style="list-style-type: none"> <li>To provide a wide range of industrial and warehouse land uses.</li> <li>To encourage employment opportunities.</li> <li>To minimise any adverse effect of industry on other land uses.</li> <li>To support and protect industrial land for industrial uses.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</li> <li><b>To enable a range of compatible community and leisure uses.</b></li> <li>To maintain the industrial character of the land in landscaped settings.</li> </ul>
2. Permitted without Consent	Nil
3. Permitted with Consent	Boat building and repair facilities; Depots; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Light industries; Liquid fuel depots; Neighbourhood shops; Oyster aquaculture; Places of public worship; Roads; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse



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	<i>or distribution centres; <b>Any other development not specified in item 2 or 4.</b></i>
4. Prohibited	<i>Advertising structures; Agriculture; Air transport facilities; Amusement centres; Animal boarding or training establishments; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Heavy industries; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Information and education facilities; Marinas; Mooring pens; Moorings; Open cut mining; Passenger transport facilities; Pond-based aquaculture; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Tourist and visitor accommodation; Veterinary hospitals; Water recreation structures; Wharf or boating facilities.</i>

The approved Indoor Recreation use would not change as a result of this Modification Application.

### 5.3.2 Development Standards

The proposed modification to the fit-out approved by **DA2021/2608** does not necessitate a re-evaluation of the applicable WLEP 2011 provisions.

## 6 NON-STATUTORY PLANNING FRAMEWORK

### 6.1 Warringah Development Control Plan

The *Warringah Development Control Plan 2011* (WDCP 2011) supplements the WLEP 2011 and provides more detailed provisions to guide development.

An assessment of the proposed development against the WDCP 2011 was considered in detail as part of the original DA. A review of these controls against the proposed modification has been undertaken and it is considered that the DCP controls would not be contravened as a result of the proposed modification.

### 6.2 Northern Beaches Section 7.12 Development Contributions Plan

As with the approved development, the modified development would continue to be subject to the *Northern Beaches Section 7.12 Development Contributions Plan*.

## 7 LIKELY IMPACTS OF DEVELOPMENT

This section identifies and assesses the impacts arising from the modified development i.e. the scope of change beyond the development approved by **DA2021/2608** with specific reference to the heads of consideration under Section 4.51(1) of the EP&A Act.



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### **7.1 CONTEXT AND SETTING**

The approved development involves the fit out and use of a new warehouse building as an indoor recreation facility (swim school), together with the reconfiguration of car parking and the erection of business identification signage.

The proposal, as modified, maintains the abovementioned development, with the most significant modifications being to the approved ground and mezzanine floor layouts, which would not alter the context or setting of the subject site and its intended operations.

The proposed internal design modifications ensure the functional operation of the subject site in accordance with the needs of the end users, whilst not impacting on any other operations. The proposal, as modified, would not exhibit any significant environmental impacts and will not adversely impact on the amenity or operations of any adjoining sites. Therefore, the proposal is considered compatible with the site context and setting.

### **7.2 BUILT FORM**

The proposed modification does not intensify the visible built form of the development, but rather continues to focus on the internal configuration of the approved indoor recreation use within the warehouse development approved by **DA2019/1346**. The modified development would continue to remain consistent with the character of the area.

### **7.3 TRAFFIC AND TRANSPORT**

The assessment of **DA2021/2608** concluded that the anticipated traffic volumes associated with the swim school are not expected to compromise the safety or function of the surrounding road network during either the weekday or weekend peaks.

The proposed removal of the small internal swimming pool would lead to a slight decrease in traffic volumes associated with the swim school.

There would subsequently be no additional transport and traffic impacts beyond the scope of the previous assessment, and the car and cycle parking provision and servicing strategy would remain as approved by **DA2021/2608**.

### **7.4 STORMWATER, EROSION AND SEDIMENT CONTROL**

As with **DA2021/2608**, the proposed modification would not impact on stormwater management or other civil engineering matters.

### **7.5 NOISE**

The original application for **DA2021/2608** satisfactorily assessed the potential vibration and noise quality impacts anticipated to arise from the development and its operations.

Acoustic Dynamics have prepared an updated assessment (**Appendix 3**) to account for the removal of the small internal swimming pool and the relocation of the mezzanine plant room to ground floor.

In terms of usage and member capacity, there will be no proposed increase associated with the modification, with both falling within the parameters of the previous assessment (Acoustic Dynamics report 5319R001.LB.211213, dated 22 December).

Acoustic Dynamics has otherwise conducted modelling for the worst-case scenario, relating to the time of day, as follows:



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**Night-time Period (06:00 – 07:00)**

- Maximum 12 staff, 48 students (under 11-year-olds) and 72 parents all speaking at normal speaking sound level;
- Mechanical plant operating within the internal ground floor enclosure, including heat pumps, air change unit, compressor and condensers, running at maximum capacity, venting to the southern façade (L<sub>PI</sub> of 92 dB(A) of the ground floor plant area);
- Extraction fans servicing the toilet and amenities areas, venting to the rooftop;
- Mechanical plant operating within the pool pump room (L<sub>PI</sub> of 82 dB(A) within the pump room) and venting to the southern façade via a roller door and a supply fan venting to the southern façade via a roller door and a supply fan venting to the southern façade via louvres; and
- Arrival of 84 vehicles and departure of 72 vehicles within the first sessions between 06:30 and 07:00 driving at 10km/hr on site.

**TABLE 5, TABLE 6** and **TABLE 7** provide a summary of the updated findings and assessments of the maximum cumulative noise impacts from noise sources associated with the modified use of the swim school at nearby sensitive receivers.

<b>TABLE 6. PREDICTED NOISE EMISSION AND RELEVANT CRITERIA - EXTERNAL RECEIVERS</b>					
<b>Sensitive Receiver Location</b>	<b>Activity / Noise Source</b>	<b>Relevant Assessment Period</b>	<b>Calculated L<sub>Aeq</sub> Noise Level [dB]</b>	<b>Project Noise Trigger Level L<sub>Aeq</sub> [dB]</b>	<b>Complies?</b>
<b>Residential [R1]</b> 30 Orlando Road [NNE]	Use and Operation of the Swim School	Night-time (22:00 – 07:00)	35	<b>40</b>	<b>Yes</b>
<b>Residential [R4]</b> 55 Campbell Avenue [E]			37	<b>40</b>	<b>Yes</b>
<b>Commercial [R5]</b> Warehouse 2 (adjacent)		When in Use	58	<b>63</b>	<b>Yes</b>

<b>TABLE 7. MAXIMUM NOISE EMISSION LEVELS AND RELEVANT OBJECTIVES - INTERNAL RECEIVERS</b>				
<b>Location</b>	<b>Location</b>	<b>Calculated Maximum L<sub>Aeq</sub> (15 min) Noise Level [dB]</b>	<b>Relevant L<sub>Aeq</sub> (15 min) Objective [dB]</b>	<b>Complies?</b>
<b>Commercial [R4]</b> Warehouse 2 (directly adjacent)	Ground Floor Warehouse Area	33	45	<b>Yes</b>
	Mezzanine Office Area	< 40	40	<b>Yes</b>

<b>TABLE 8. MAXIMUM ROAD TRAFFIC NOISE EMISSION LEVELS AND CRITERIA FOR RESIDENTIAL RECEIVERS</b>					
<b>Residential Receiver Location</b>	<b>Noise Source</b>	<b>Quietest Period Source Operates</b>	<b>Calculated Maximum L<sub>Aeq</sub> (1 hour)</b>	<b>Relevant Noise Criterion L<sub>Aeq</sub> (1 hour) [dB]</b>	<b>Complies with Criteria?</b>



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			Noise Level [dB]		
Along South Creek Road or Inman Road	Off-site car movements	Night (22:00 – 07:00)	< 35	50	<b>Yes</b>

Acoustic Dynamic's updated noise modelling and calculations continue to conclude that:

- External noise emission from the use and operation of the modified swim school **will continue to achieve compliance** with Northern Beaches Council and the EPA NSW NPfi criteria with the incorporation of the recommendations provided in Section 5.2 of the Acoustic Dynamics report;
- Internal noise emission from the use and operation of the modified swim school **will continue to achieve compliance** with Northern Beaches Council and Australian Standard 2107-2016 with the incorporation of the recommendations provided in Section 5.2 of the Acoustic Dynamics report;
- Sleep disturbance from the use and operation of the modified swim school **will continue to achieve compliance** with Northern Beaches Council and the EPS NSW criteria;
- Road traffic noise emission from the use and operation of the modified swim school **will continue to achieve compliance** with Northern Beaches Council and the EPA NSW RNP criteria; and
- Acoustic Dynamics has determined that the noise emission from the modified swim school **will continue to achieve compliance** with Offensive noise component of the NSW POEO Act with the incorporation of the recommendations provided at Section 5.2 of the Acoustic Dynamics report.

Acoustic Dynamics advise that the incorporation of the recommendations set out at Section 5.2 of the updated report will ensure that the noise emission associated from the use and operation of the modified swim school will comply with the relevant noise emission criteria and not adversely impact nearby receptors.

#### 7.6 HERITAGE

The proposed modification would continue to comprise the use of the new warehouse building as an indoor recreation facility, and would not affect the fabric of the nearby heritage buildings retained on the site. The works sought comprise the internal reconfiguration of the approved warehouse only.

The conclusions arising from the assessment of **DA2021/2608** therefore remain unchanged.

#### 7.7 BIODIVERSITY

As with **DA2021/2608**, the proposed modification would not impact on biodiversity.

#### 7.8 BUILDING CODE OF AUSTRALIA

The proposed modifications to the internal configuration of the approved swim school have been reviewed by Jensen Hughes as BCA and Access Consultants. The findings of their review are enclosed at **Appendix 5** and confirm that the works are considered to be minor internal changes and will simplify the compliance of the development. Jensen Hughes conclude that the proposed changes can readily comply with the provisions of the Building Code of Australia 2019.





## SECTION 4.55(1A) APPLICATION

Modification to DA2021/2608

100 South Creek Road, Cromer (Lot 1 in DP 1282038)

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### 7.9 WASTE

This consideration has been previously assessed as part of **DA2021/2608** and remains unaffected by the proposed modifications.

### 7.10 SUITABILITY OF SITE FOR DEVELOPMENT

The principle of introducing an indoor recreation use (swim school) at the subject site has already been established by **DA2021/2608**. The proposed modification seeks internal alterations only to enable the viable operation of the approved development.

### 7.11 SUBMISSIONS

The proponent is willing to address any submissions, should they be received by Council.

### 7.12 THE PUBLIC INTEREST

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

## 8 CONCLUSION

This application seeks consent for modifications to development consent **DA2021/2608**, 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 **DA2021/2608**;
- 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 ongoing design refinements on behalf of the site operator and project team to ensure that the end development is responsive to the needs of the end users;
- The proposed modifications maintain compliance with the key development standards contained within the WLEP 2011; 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 **DA2021/2608** are considered worthy of support by Northern Beaches Council.



**SECTION 4.55(1A) APPLICATION**

Modification to DA2021/2608

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Should you require additional information, please do not hesitate to contact Jamie Bryant via email at [jbryant@willowtp.com.au](mailto:jbryant@willowtp.com.au).

Yours sincerely,



Andrew Cowan  
Director  
Willowtree Planning Pty Ltd

Enc.

