

WILLOWTREE PLANNING



11 July 2022

Ref: WTJ22-157
Contact: Peter Braga

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 - 10 INMAN ROAD, CROMER (LOT 1 DP 1220196)

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 - 10 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** (**Appendix 1**) 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** Development Consent (**DA2019/1346**)
- **Appendix 2** Development Consent (**Mod2020/0611**)
- **Appendix 3** **DA2019/1346** Civil Stamped Plan Markup
- **Appendix 4** Arboricultural Letter
- **Appendix 5** WDCP2011 Compliance Table

The overall intent of the proposed modifications is to remove three (3) trees that are impacted by approved drainage works associated with the augmentation of the existing riparian corridor.

This MA constitutes the second modification sought to **DA2019/1346**. **Mod2020/0611** was granted approval on 1 April 2021 for the reconfiguration of the basement car park.

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2. SITE LOCATION AND CHARACTERISTICS

The Subject Site is located at 100 South Creek Road, Cromer, also known as 4 - 10 Inman 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 twenty (20) kilometres 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 trees proposed to be removed are identified as Tree 56, 57 and 58. These trees are all located adjacent to one another in the southern portion of the Site adjacent to the existing industrial building along South Creek Road. They can be identified in the **DA2019/1346** Civil Stamped Plan Markup at **Appendix 3**.

The existing Site characteristics are depicted in **Figures 1, 2 and 3** below.

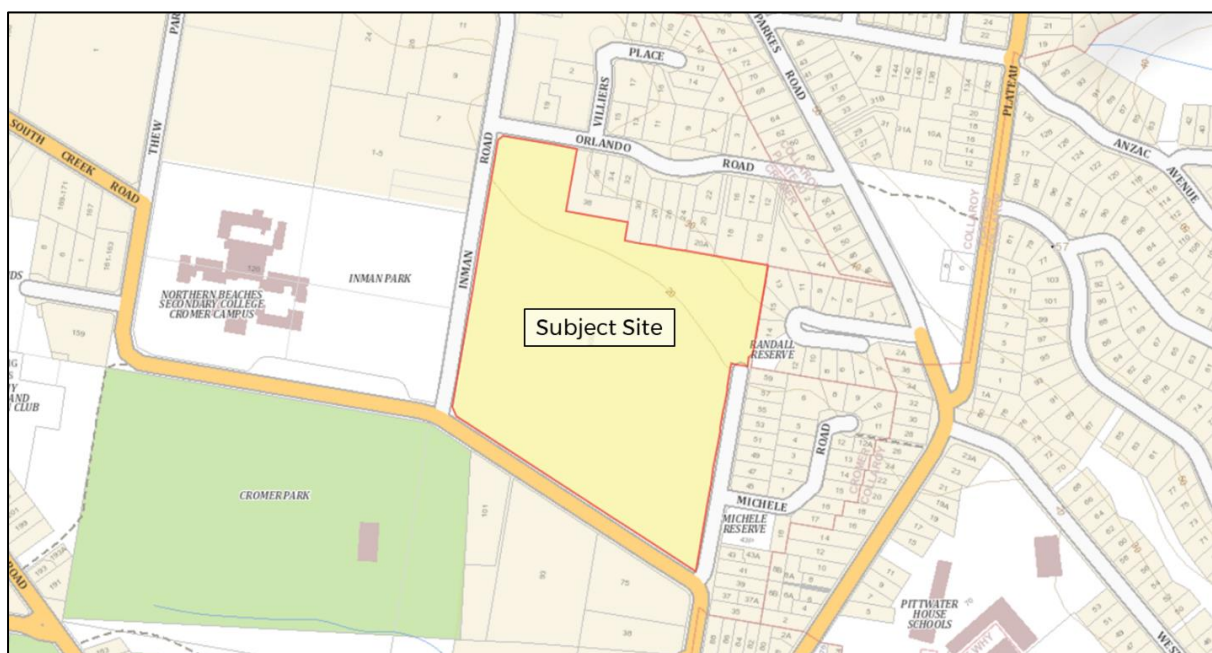


Figure 1. Cadastral Map (Source: SIX Maps, 2021)



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Figure 2. Aerial Map (Source: Nearmap, 2021)

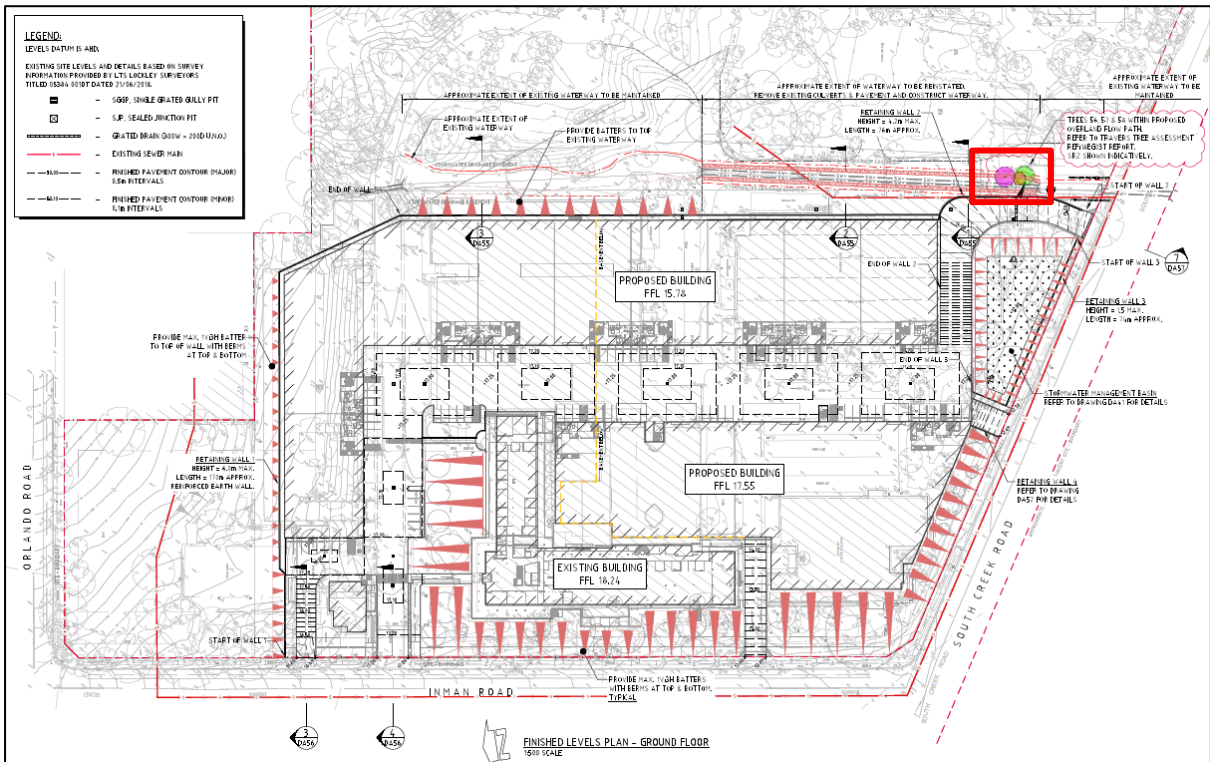


Figure 3. Civil Plan identifying proposed trees to be removed (Source: Costin Roe, 2022)



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3. PROPOSED MODIFICATIONS

The proposed modification seeks to consent for the removal of three (3) trees. The purpose of this tree removal is to allow for approved drainage works under **DA2019/1346** to be completed that are associated with the augmentation of the existing riparian corridor.

A summary of the proposed modifications includes:

- Removal of three (3) trees.

The trees proposed to be removed are identified as Tree No. 56, 57 and 58. They are located in the south west portion of the Site and are identified within the **DA2019/1346** Civil Stamped Plan Markup at **Appendix 3**.

Trees 56, 57 and 58 were marked for retention in the August 2018 TAR however as per Council Stamped Plan, (Drawing Title: Finished Levels Plan Ground Floor, Drawing Number: CO13674.01-DA51 Issue D) approved under **Mod2020/0611**, the existing riparian corridor/waterway is to be reinstated as a drainage channel which will be deep enough to contain a 1 in 100 year flood event. Batters to the top of this reinstated waterway will also be installed which will encroach within the tree protection zone (TPZ) of Trees 56, 57 and 58. As such, the removal of these trees is required to facilitate the construction of the approved development under **DA2019/1346**.

As such, the removal of these trees is required to facilitate the construction of the approved development under **DA2019/1346**.

Consultation with a Civil Engineer indicates that the works approved under **DA2019/1346** cannot be redesigned to accommodate the trees and facilitate a 1 in 100 year flood event as there are spatial restrictions preventing the channel from being re-aligned.

No changes to any built structures, GFA or car parking is proposed as part of this development.

4. 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 blue, with deletions as a ~~striketrough~~ and additions as underlined.

4.1 Proposed Conditions

Condition No. 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

Reports / Documentation - All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
<i>Schedule of Conservation Works (Job No.8851)</i>	<i>July 2020</i>	<i>Heritage 21 Pty Ltd</i>
<i>BCA Statement</i>	<i>13/11/2019</i>	<i>SBA Architects</i>
<i>Civil Engineering Report Rev.A</i>	<i>26/11/2019</i>	<i>Costin Roe Consulting Pty Ltd</i>
<i>Conservation Management Plan Issue 7</i>	<i>17/05/2019</i>	<i>Heritage 21 Pty Ltd</i>
<i>Statement of Heritage Impact Issue 4</i>	<i>11/11/2019</i>	<i>Heritage 21 Pty Ltd</i>
<i>Transport Impact Assessment Issue A</i>	<i>21/11/2019</i>	<i>GTA Consultants</i>
<i>Acoustic Assessment Report</i>	<i>20/11/2019</i>	<i>Acoustic Dynamics</i>
<i>Biodiversity Constraints Assessment</i>	<i>16/08/2017</i>	<i>Eco Logical Australia</i>



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<i>Biodiversity Development Assessment Report (REF: 18EG02BDAR)</i>	<i>07/04/2020</i>	<i>Travers bushfire & ecology</i>
<i>Tree Assessment Report (REF: 18EG03T)</i>	<i>10 August 2018</i>	<i>Travers bushfire & Ecology</i>
<i>Preliminary Geotechnical Assessment Rev.1 (Ref: 30766ZRrpt)</i>	<i>18 August 2017</i>	<i>JK Geotechnics</i>
<i>Report on Desktop Groundwater Assessment (R.001.Rev1)</i>	<i>25 October 2019</i>	<i>Douglas Partners</i>
<i>Urban Design and Heritage Report Rev.2</i>	<i>1 November 2019</i>	<i>dfp planning consultants</i>
<i>Site Audit Report Rev.A</i>	<i>20 April 2018</i>	<i>AECOM Australia Pty Ltd</i>
<i>Overland Flow Report Rev.A</i>	<i>28 February 2020</i>	<i>Costin Roe Consulting Pty Ltd</i>
<i>Arboricultural Letter</i>	<i>31/5/2022</i>	<i>Travers bushfire & ecology</i>

Condition No. 40

Tree trunk, branch and root protection

(a) Existing trees which must be retained

i) All trees (except for Tree(s) No. 56, 57 and 58) not indicated for removal on Landscape Plans Dwg Nos. 101B, 102B, 103B and 104B dated 04.11.2019 prepared by Site Image, unless exempt under relevant planning instruments or legislation

ii) Trees located on adjoining land

(b) Tree protection

i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by the Project Arborist on site.

ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by the Project Arborist on site.

iii) All tree protection to be in accordance with the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting On the site.

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 **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
(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



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<i>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 to the removal of three (3) trees to allow for drainage works approved under DA2019/1346 . The development as modified would result in substantially the same development as the development for which consent was granted under DA2019/1346 .
<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> <i>(i) the regulations, if the regulations so require, or</i> <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>	The application will be re-notified as required in accordance with the regulations and the <i>Northern Beaches Community Participation Plan</i> .
<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 5.1.1 of this statement.

5.1.1 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(1)(A) CONSIDERATIONS	
Section	Response
<i>Section 4.15(1)(a)(i) any environmental planning instrument, and</i>	Refer to Section 5 of this statement.
<i>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</i>	There are no applicable draft instruments for consideration.



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Section 4.15(1)(a)(iii) any development control plan, and	Refer to Section 6.1 of this statement.
Section 4.15(1)(a)(iiiia) 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 5.2 of this statement.
Section 4.15(1)(b)-(c)	Refer to Section 7 of this statement.

5.1.2 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.

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).

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

5.3 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) commenced on 25 August 2017 and sets out, among other things, to establish a scientific method for assessing the likely impacts on biodiversity values of proposed development and land use change.

As part of **DA2019/1346 (Appendix 2)**, an ecological survey and assessment have been undertaken in accordance with relevant legislation including the EP&A Act and the BC Act.

In respect of matters required to be considered under the EP&A Act and relating to the species / provisions of the BC Act, three (3) threatened fauna species including the Powerful Owl (*Ninox strenua*), Grey-headed Flying-fox (*Pteropus poliocephalus*) and Little Bentwing-bat (*Miniopterus australis*), two (2) threatened flora species *Eucalyptus scoparia* and *Syzygium paniculatum* (all planted), and no threatened ecological communities (TECs) were recorded within the study area.

The assessment of significance test in accordance with Section 7.3 of the BC Act concluded that the proposed development is not likely to have a significant effect on any threatened species, endangered communities, or their habitat. Therefore, a species impact statement is not required for the proposed activity.

An Arboricultural Letter has been prepared by Travers bushfire and ecology and can be found at **Appendix 4**.

The proposal has been assessed and approved with a BDAR requiring credits for impacts on PCT 1841. The base of the three (3) trees appear to occur adjacent to the area being offset or considered as part of the development footprint with some canopy overhang into the development footprint. The credits generated by the impact was nine (9) ecosystem credits for a 5,200m² impact. The addition of 100m² impact would not change the credit generation, it would need to be approximately 578m² in size to



require an additional credit to be sourced. Based on this, Travers bushfire & ecology don't feel it necessary to provide an amendment to the BDAR or calculator.

5.4 Local Planning Context

5.4.1 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 IN1 General Industrial pursuant to the WLEP2011.

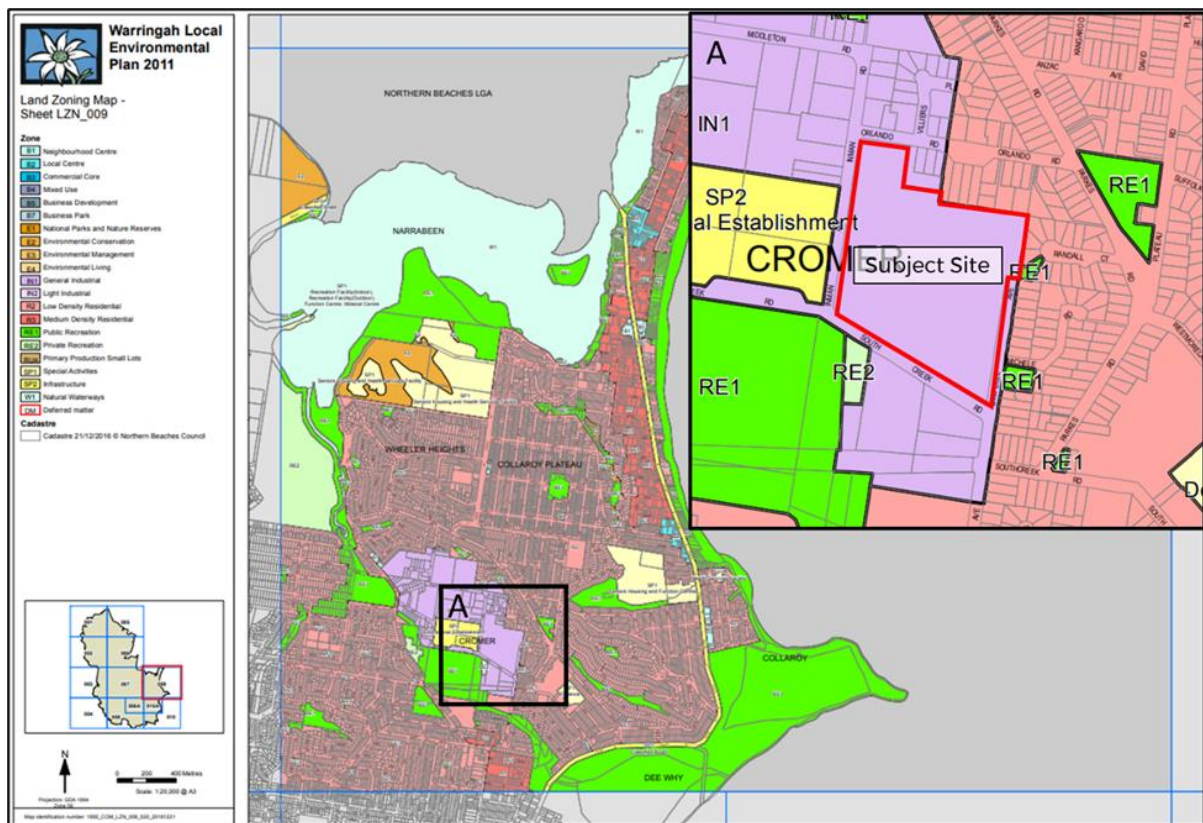


Figure 4. WLEP2011 Zoning Map (Source: NSW Legislation, 2021)

The Subject Site is zoned IN1 General industrial, pursuant to the WLEP2011.

The proposal, as modified, is consistent with the objectives of the zone as it will continue to deliver alterations and additions to the existing industrial facility. 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 (Figure 4). The proposed modifications are clear of the listed heritage items, as depicted in the revised plans, included in Appendix 2 . As such, no further reporting is considered necessary for 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. The proposal would have no material impact in this respect.

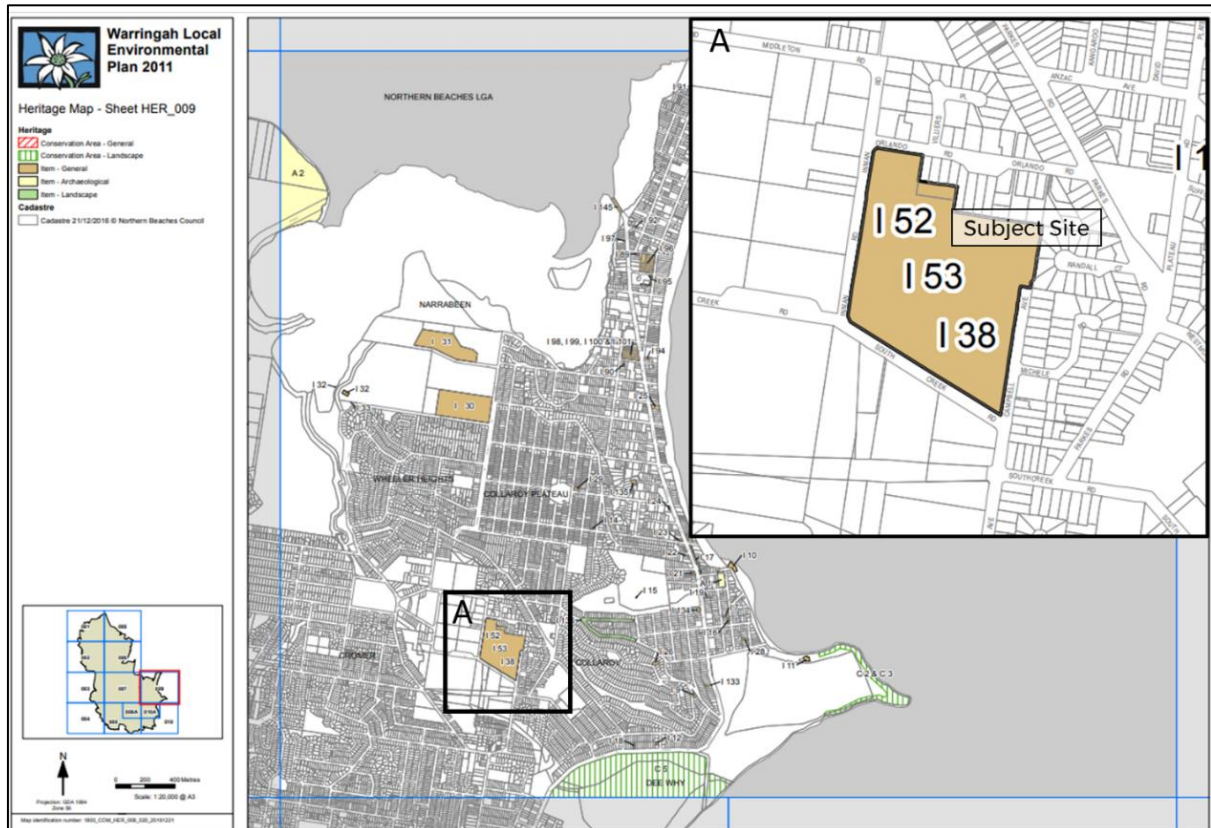


Figure 4. WLEP2011 Heritage Map (Source: NSW Legislation, 2022)



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6 NON-STATUTORY PLANNING FRAMEWORK

6.1 Warringah Development Control Plan 2021

The *Warringah Development Control Plan 2021* (WDCP2011) supplements WLEP2011 and provides more detailed provisions to guide development.

An assessment of the proposal against the relevant sections of the WDCP2011 is provided at **Appendix 4**.

7 LIKELY IMPACTS OF DEVELOPMENT

7.1 Context and Setting

The Subject Site comprises one large allotment, including laboratory, factory, warehouse buildings, administrative offices and stores, previously occupied by Roche. The buildings are predominantly located in the south western portion of the Subject Site and are accessible via Inman Road and South Creek Road.

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 modifications ensure the functional operation of the Subject Site in accordance with the approved engineering and drainage plans, whilst not impacting on any other operations. The proposal, as modified, would not exhibit any adverse environmental impacts and will not unduly 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 proposal, as modified, does not propose any changes to the built form or will intensify the visible built form of the development.

7.3 Tree Removal

An Arboricultural Letter has been prepared by Travers bushfire and ecology and can be found at **Appendix 4**.

The proposed modification seeks to consent for the removal of three (3) trees. The purpose of this tree removal is to allow for approved drainage works under **DA2019/1346** to be completed that are associated with the augmentation of the existing riparian corridor.

DA2019/1346 did not appropriately consider the impact of the approved drainage channel and batter works on the three (3) trees identified. Travers bushfire and ecology prepared a Tree Assessment Report on 10 August 2018 (TAR) for the Subject Site as part of the **DA2019/1346**. As outlined in the report, 305 trees were assessed within the Subject Site. 48 trees were recommended for removal due to their poor condition. The development of the Site was anticipated to require the removal of 91 trees within the development area. 166 trees located within the study area were listed as to be retained.

Trees 56, 57 and 58 were marked for retention in the August 2018 TAR however as per the following plans; Stormwater Drainage Plan Ground Floor (Drawing Number: CO13674.01-DA41) and Finished Levels Plan Ground Floor (Drawing Number: CO13674.01-DA51 Issue D.2) (**Appendix 3**), the existing riparian corridor/waterway is to be reinstated as a drainage channel which will be deep enough to contain a 1 in 100 year flood event. Batters to the top of this reinstated waterway will also be installed which will encroach within the TPZ of Trees 56, 57 and 58. As such, the removal of these trees is required to facilitate the construction of the approved development under **DA2019/1346**.

Six (6) additional medium height trees are proposed to be planted within the riparian zone to off-set the removal of Trees 56, 57 and 58.



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7.4 Traffic and Transport

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

7.5 Heritage

The proposed modifications are clear of the listed heritage items, as depicted in the revised plans, included in **Appendix 2**. Additionally, the removal of the trees will not detract from the heritage significance of amenity of the Site. As such, no further reporting is considered necessary for this MA.

7.6 Stormwater

The proposal would not impact on stormwater management or other civil engineering matters. Moreover it, the removal of the three (3) trees would ensure that the approved drainage works can be undertaken.

Consultation with a Civil Engineer indicates that the works approved under **DA2019/1346** cannot be redesigned to accommodate the trees and facilitate a 1 in 100 year flood event as there are spatial restrictions preventing the channel from being re-aligned

7.7 Other Matters for Consideration

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

7.8 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.

7.9 Submissions

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

7.10 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.



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8 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:

- **DA2019/1346** did not appropriately consider the impact of the approved drainage works on Trees 56, 57 and 58 and their removal is necessary to facilitate the approved development;
- The proposed modifications reflect ongoing design refinements on behalf of the landowners 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 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 Peter Braga via email at pbraga@willowtp.com.au.

Yours faithfully,



Andrew Cowan
Director
Willowtree Planning Pty Ltd



Appendix 1 Development Consent (**DA2019/1346**)



Appendix 2 Development Consent (**Mod2020/0611**)



Appendix 3 DA2019/1346 Civil Stamped Plan Markup



Appendix 4 Arboricultural Letter



Appendix 5 WDCP2011 Compliance Table

