

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-51
<b>DA Number</b>	DA2019/1346
<b>LGA</b>	Northern Beaches Council
<b>Proposed Development</b>	Demolition works and alterations and additions to an existing industrial facility, including new warehouse, industry and self-storage, office premises and ancillary cafe
<b>Street Address</b>	Lot 1 DP 1220196, No. 4 - 10 Inman Road, Cromer
<b>Applicant/Owner</b>	Perpetual Corporate Trust Ltd (Owner) EG (Applicant)
<b>Date of DA lodgement</b>	27 November 2019
<b>Number of Submissions</b>	1
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	The proposal has a Capital Investment Value (CIV) of more than \$30 million.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Warringah Local Environmental Plan 2011</li> <li>• State Environmental Planning Policy (Coastal Management) 2018</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land (and draft)</li> <li>• Warringah Development Control Plan 2011</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1: Architectural Plans;</li> <li>• Attachment 2: Pre-Lodgement meeting notes</li> <li>• Attachment 3: Applicant's Clause 4.6</li> <li>• Attachment 4: Draft conditions of consent</li> </ul>
<b>Clause 4.6 requests</b>	Yes – Clause 4.3 Height of Buildings (25.7% variation)
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Traffic impacts from construction related activities</li> </ul>
<b>Report prepared by</b>	Lashta Haidari – Principal Planner
<b>Report date</b>	25 June 2020

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment? **Yes**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## EXECUTIVE SUMMARY

The proposal involves demolition works and construction of an additional eleven (11) warehouse units with mezzanine offices, an additional five (5) office tenancies, a basement level self-storage facility and a café, totalling 24,560m<sup>2</sup> of additional gross floor area (GFA).

The subject site was home to the former *Roche Pharmaceutical Corporate and Manufacturing Campus*, which has been inactive for a number of years. The subject site is approximately 7.5 hectares in area and is zoned IN1 General Industrial under the provisions of WLEP 2011.

The proposal has a CIV of more than \$30 million, therefore, the proposal is Regionally Significant Development pursuant to Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* and the Sydney North Planning Panel is the consent authority pursuant to section 4.5(b) of the Environmental Planning and Assessment Act, 1979.

The subject site comprises three (3) items of environmental heritage, all of which are listed under Schedule 5 of the WLEP2011. The proposal seeks to retain the former office building fronting Inman Road, the single storey office building returning at right angles at its northern end and the visually prominent hexagonal tower element.

The proposal involves a variation to the maximum building height development standard prescribed by clause 4.3 of WLEP 2011, with a maximum departure of 25.7%.

The proposal is consistent with the objectives of the height standard and the applicant has satisfactorily established that the proposed variation is appropriate in the circumstance. The development is not perceived to create an unreasonable level of impact to adjoining properties. For this reason, the applicant has successfully demonstrated that strict compliance with the development standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify the contravening the development standard. It is considered that the Clause 4.6 variation is well founded, it has addressed the matters under Clause 4.6(3) and should be supported.

The proposal will result in a non-compliance with DCP in terms of the number of car parking spaces required for the proposed development. The shortfall in the car parking on this site has been an ongoing issue prior to and during the assessment of this application. However, the applicant has demonstrated that the proposed car parking is adequate for the development and that the car parking should be calculated using the RMS guide rather the DCP.

The DA was publicly exhibited in accordance with the Northern Beaches Community Participation Plan and one (1) submission was received, raising concerns in relation to the traffic impact of the development, which is addressed in this report and does not warrant refusal of the application.

The assessment concludes that the impacts of the development are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent. Consequently, the assessment considers the development is in the public interest and should be approved subject to conditions.

## PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent for part demolition works and alterations and additions to an existing industrial facility for warehouse, industry and self-storage, office premises and ancillary café at the subject site. The proposed development comprises of the following:

- Retention and conservation of Buildings 01, 02, 06, the hexagonal tower, the internal courtyard and the post-World War II cottage (Building 05);
- Repurposing of the of the post-World War II cottage for an ancillary café use;
- Maintain potential use of Buildings 02 and 06 as commercial offices;
- Demolition of existing non-heritage buildings, being Buildings 03, 07, 09, 11, 18, 22, 44, and structures 20, 45, 46 and 48;

- Construction of eleven (11) warehouse units and ancillary offices;
- Construction of underground self-storage units;
- Provision of 231 car parking spaces, including 72 at grade and a 159 in basement carpark;
- Tree removal and associated Earthworks and Landscape works; and
- Signage

The details of the proposal are summarised in the following table:

Aspects of Proposal	Details of Proposed Development
Site Area	37,031m <sup>2</sup>
Building Type	Warehouse, self-storage units, commercial offices and café
Gross Floor Area	Total = 24,560m <sup>2</sup> <ul style="list-style-type: none"> <li>• 15,505sqm (warehouse)</li> <li>• 1,850sqm (ancillary mezzanine offices)</li> <li>• 3,902sqm (self-storage)</li> <li>• 3,179sqm (commercial offices)</li> </ul>
Floor Space Ratio	0.66:1
Building Height	Up to a maximum of 13.83m
Number of Storeys	Two (2)
Number of tenancies/units	11 warehouse units 5 office tenancies
Car Parking	231 car spaces
Tree Removal	53 trees to be removed
Signage	<ul style="list-style-type: none"> <li>• on retained hexagonal tower</li> <li>• at entries/exits on South Creek Road and Inman Road</li> <li>• at the corner of South Creek Road and Inman Road</li> <li>• on warehouse units</li> </ul>

Figure 1 and Figure 2 below are provided to assist in the identification of the proposed building footprint within the site and the appearance of the building, as viewed from Inman Road.



Figure 1 – Site Plan (Source: SBA Architects, 2019)



Figure 2 – View of the proposed Development from Inman Road (Source: SBA Architects, 2019)

## ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SITE DESCRIPTION

The site is legally described as Lot 1 within DP 1220196 and is known as No.4-10 Inman Road (also being known as 100 South Creek Road), Cromer. The subject site is more commonly referred to as the former *Roche Products Australia* premises. It has four (4) street frontages, being South Creek Road to the south, Inman Road to the west, Campbell Avenue to the east and Orlando Road to the north. 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, however the proposed development does not extend to the eastern part of the site. The remainder of the subject site shares a common boundary with existing residential dwellings and a childcare centre to the north.

The site is zoned IN1 General Industrial under the Warringah Local Environmental Plan 2011 (WLEP2011) and includes mostly office buildings and large warehouse/manufacturing buildings.

The site has been significantly development and includes a variety of buildings and structures, ranging in age from the 1920's through to 2005.

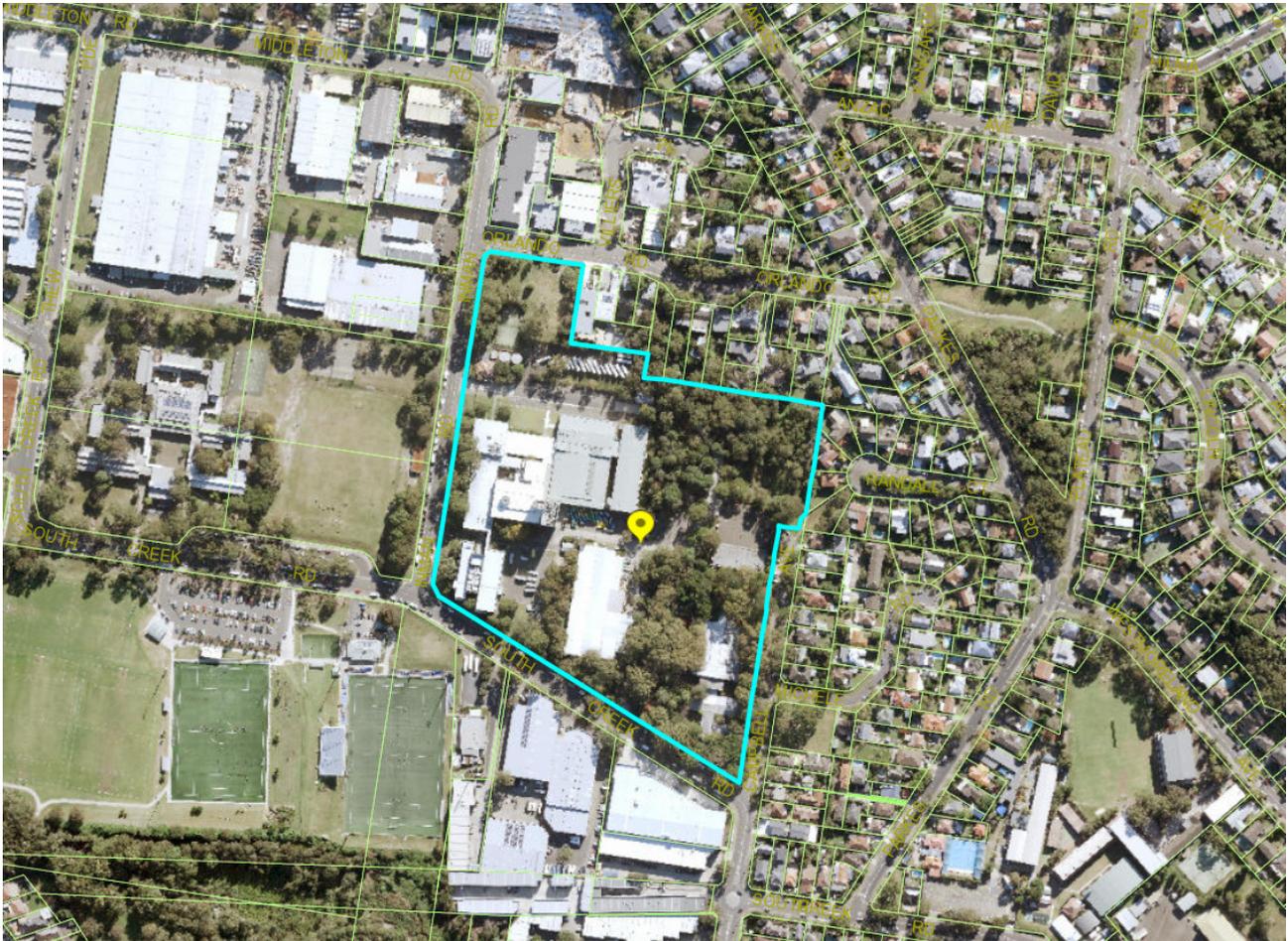


Figure 3: Site Map (Council SEA)

The site contains three (3) heritage items, being the central industrial "Roche" building, the weatherboard cottage located in the south-eastern corner of the site and a stand of trees adjacent to Campbell Avenue. These items will remain unaffected by the current proposal. There is also known to be some Aboriginal cultural relics within or near the north-western corner of the site.

Vehicle access to the site is available off both South Creek Road and Inman Road.

## SITE HISTORY

A pre-lodgement meeting was held with the applicant on 9 September 2019 to discuss a proposed redevelopment of the site for the construction of an industrial development, landscaping and car parking.

A copy of the PLM notes are attached to this report (refer to Attachment 2).

## Previous Approvals

**Building Application No.B1206/63** - A "factory" building for 'Roche Products' was approved by Council in 1963.

Between 1963 and the current time there have been numerous building and development approvals for the site including, additional factory buildings, laboratory premises, offices, caretakers dwelling/s, warehouses, alterations to factory buildings and the like. This includes miscellaneous approvals for flag poles, squash courts, tennis courts, car parking, cool rooms, tree removal and the like.

The most recent relevant approvals include:

- **Development Application No.DA2005/0467** for construction of a new office building, renovations of existing buildings, new car parking areas and demolition was approved on 14 September 2005.
- **Development Application No.DA2010/1923** for alterations and additions to an office building was approved on 17 March 2011.
- **Development Application No.DA2012/1102** for subdivision of land was approved on 23 March 2013. This proposal included excising 6,696 sqm of land from Lot 100 that is located in the NW corner of the site fronting Orlando Road and Inman Road, and a concept building footprint with car parking and detention basin with landscaped setbacks to all boundaries. The associated Subdivision Certificate No.**SC2014/0002** was withdrawn by the applicant on 2 April 2014.

## SUBJECT APPLICATION

The current application was lodged on 27 November 2019. During the assessment of the application, a number of internal referral bodies raised concerns with the proposal, particularly in regards to traffic and parking, contamination and biodiversity matters. In response, the applicant submitted additional information on a number of occasions in an attempt to address the concerns raised.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The proposal has been reviewed by Council’s Environmental Health Officer – Contaminated Lands and no concerns have been raised.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.

Section 4.15 'Matters for Consideration'	Comments
	<p>Clauses 54 and 109 of the EP&amp;A Regulation 2000 provide that Council may request additional information and consider the number of days taken in this assessment of the development application. Additional information was submitted during the assessment of the application.</p> <p>Clause 92 of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clauses 93 and/or 94 of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report. In summary, it is found that the development will not have any negative or detrimental impacts on the environment.</p> <p><b>(ii) Social Impact</b> The proposed development will have beneficial social impacts on the greater Northern Beaches area by providing additional supply of industrial/warehouse uses. It is not anticipated that the development will have any adverse social impacts.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the warehouse nature of the proposal in an industrial area.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The suitability of the site in terms of likely impacts on the environment and amenity has been discussed in detail in the various section of this report. In summary, the site is suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>The public interest has been considered as part of the assessment. The overall, the public interest is best served by the consistent and correct application of the applicable planning controls, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised and/or managed appropriately.</p> <p>Whilst there are variations to the planning controls, the departures have been assessed and the proposal is suitable and appropriate for the site and locality.</p> <p>In conclusion, the proposal has been assessed against the provisions of the relevant planning controls and is deemed to be acceptable in terms of its impact on the site, and the adjoining industrial and residential areas, subject to suitable conditions to manage the construction impacts and ongoing operations of the complex.</p>

Section 4.15 'Matters for Consideration'	Comments
	On this basis, the proposal is considered to be in the public interest.

**NOTIFICATION & SUBMISSIONS RECEIVED**

The DA was exhibited from 21 December 2019 till 1 February 2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Northern Beaches Community Participation Plan (CPP).

As a result of the public exhibition process, Council is in receipt of one (1) submission, which raised concerns in relation to the proposed development.

The following issue was raised in the submission:

- **Traffic safety and congestion**

***Concern has been raised that the development will have a detrimental impact on the congestion of surrounding streets and will give rise to greater traffic hazards and risks, particularly during the construction phase.***

Comment

This issue is addressed in detail under Council’s Traffic Referral Comments.

In summary, the applicant submitted a Traffic Impact Assessment with the application, and a revised Traffic Report on 27 May 2020, which assessed the likely traffic impacts of the proposal and parking demand generated by the proposed development.

The information provided by the applicant has been reviewed and found to be satisfactory to Council’s Traffic Section, who have raised no concerns in relation to the proposed development on traffic grounds, recognising that the proposal will be acceptable in relation to traffic impacts.

Overall, the increase in traffic generation associated with the proposed development is not considered to have a significant traffic impact on the adjacent road network and intersections nor on the amenity of adjoining and surrounding sites.

With regards to traffic impact during construction, appropriate conditions (including the requirement for a Construction Traffic Management plan) have been imposed to minimise impacts.

This issue does not warrant the refusal or amendment of the application.

**REFERRALS**

Internal Referral Body	Comments
Building Assessment	<p><b>Supported – subject to conditions</b></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Development Engineering	<b>Supported – subject to conditions</b>

Internal Referral Body	Comments
	<p>Amended plans in response to the Landscape Office comments were received and assessed. No objections are raised to the proposal, subject to conditions.</p>
Environmental Health – commercial use	<p><b>Supported – subject to conditions</b> The mention of a cafe for this development is a concept plan at this stage therefore conditions will apply for prior to construction certificate.</p>
Environmental Health – contaminated lands	<p><b>Supported – subject to conditions</b> Due to the complex nature of contamination on this site and previous involvement of the EPA, Council forwarded documentation to the EPA for review on the proposal. The EPA provided comments and recommended conditions to Council.  Council has taken to implement these conditions to form part of the DA.</p>
Environmental Health – industrial use	<p><b>Supported – subject to conditions</b> Environmental Health has reviewed the acoustic report and public health matters associated with the proposed development and has provided conditions.</p>
Heritage	<p><b>Supported</b> This application has been referred as the site contains a number of listed heritage items, being <b>Item 152 - Roche Building; Item 153 - Givaudan-Roure Office and Item 138 - Trees - Campbell Avenue</b>. These 3 items are listed as local heritage items in <i>Schedule 5 Environmental Heritage of Warringah Local Environmental Plan 2011</i>.</p> <p>This application proposes redevelopment which directly affects <b>Item 152 - Roche Building</b> but does not directly affect the other 2 heritage items on the site.</p> <p>This application is for partial demolition of the existing heritage item and construction of a new development incorporating offices, warehouses, storage facility and on-site cafe.</p> <p>This development has been the subject of a number of pre-lodgement meetings during which a number of heritage concerns were raised, particularly in relation to the amount of original building fabric being removed and also in relation to the bulk, scale and design of the building on the corner of Inman Road and South Creek Road and its relationship to the remaining elements of the heritage building.</p> <p>This DA has been reviewed by Council's external heritage advisor (Robert Moore) who has been involved in all PLM discussions and negotiations. He is satisfied with the application in that it seems to address all heritage issues raised. He noted that the best aspect of the application from a heritage point of view is the retention of the office wing behind the frontage of the heritage building on Inman Road. In doing so, the application proposes the retention of most of the original office buildings (which date back to 1964), including the office wing fronting Inman Road and the internal office wing behind it.</p> <p>The retention of these original buildings will largely preserve the main view of this important and iconic industrial building, from outside the site (from Inman Road) and more importantly also from inside the site (from the main entrance driveway and proposed cafe).</p> <p>The development also proposes the retention of the hexagonal tower due to its landmark qualities associated with the previous use of this site by <b>Roche</b> and part of the internal courtyard. Structural assessment will be needed to ensure that this hexagonal tower is appropriately retained.</p> <p>Reconfiguration of the warehouse component has resulted in a development which opens up vistas to the original office buildings and contributes to</p>

Internal Referral Body	Comments
	<p>maintaining its landscaped setting, which is an important part of its heritage significance. The original Roche development was one of the first industrial estates set within a landscaped setting and it is important that this landscaped context is retained in any redevelopment.</p> <p>The application is supported by a Heritage Impact Statement by Heritage 21, dated October 2019, supplemented by a Conservation Management Plan, also prepared by Heritage 21, dated May 2019.</p> <p>If there is an issue approving stand-alone offices as part of this development, then use of <i>Clause 5.10 (10) Conservation Incentives</i>, would be supported for this use within the original office buildings being retained. As these buildings were built for office purposes, the most appropriate use for these restored heritage buildings would be office use, either in conjunction with an industrial use on site or as stand-alone offices. In allowing stand-alone office usage (using Clause 5.10(10)), Council would be ensuring that these heritage buildings can continue to be used for the purpose for which they were built.</p> <p>There may also be an issue with permissibility of the proposed cafe in the existing inner war cottage fronting Inman Road. Again, heritage would support this use being approved by way of <i>Clause 5.10(10) Conservation Incentives</i>, as the introduction of such a use will make the office component more attractive to tenants and also the cafe will act as a vehicle to increase the accessibility and visibility of these heritage buildings for the general community.</p> <p>The proposal includes using the cafe and surrounds for site interpretation. The original Roche complex included a cafe for its workers and this development, by including a cafe, will be continuing to provide cafe facilities for site workers while also enabling the wider community to visit the site and appreciate its heritage and history.</p> <p>In accordance with <i>Clause 5.10(10) of Warringah Local Environmental Plan 2011</i>, it is considered that:</p> <ul style="list-style-type: none"> <li>• the conservation of this heritage item will be facilitated by the granting of consent for the stand alone office components and the cafe usage as part of this development;</li> <li>• the proposed development will need to be managed in accordance with the Conservation Policies included within the Conservation Management Plan by Heritage 21, which was submitted with the application;</li> <li>• the proposed development will need to implement the mitigation measures included within the Heritage Impact Statement by Heritage 21, which was submitted with the application;</li> <li>• the proposed development (and specifically the inclusion of stand-alone offices and a cafe) will not adversely affect the heritage significance of the heritage item; and</li> <li>• the proposed development will not have any significant effect on the amenity of the surrounding area.</li> </ul> <p>As a result, no objections are raised to the use of Clause 5.10(10) to approve uses otherwise prohibited by the zoning (i.e. stand-alone offices and cafe).</p> <p>Additionally, no objections are raised on heritage grounds, subject to the imposition of conditions requiring archival recording, temporary protection measures and interpretation.</p>
Landscape	<p><b>Supported – subject to conditions</b></p> <p>The information provided with the application leads to some confusion regarding tree retention and removal.</p>

Internal Referral Body	Comments
	<p>The Landscape Plans and Architectural Plans indicate the majority of trees on the South Creek Road and Inman Road frontages to be retained.</p> <p>The Arborist's Report provided appears to be from an earlier application and indicates all of these trees to be removed, along with additional trees in the northern part of the site.</p> <p>The Stormwater Drawings indicate regrading works, swale drains and detention pond in the location of the existing trees, which would necessitate their removal.</p> <p>It is unclear why regrading is required to the street frontages or why the detention basin is located in the front setback.</p> <p>Based on the Landscape and Architectural Plans, the proposal can be supported with conditions.</p> <p>From a landscape perspective <u>the engineering works proposed are not supported</u> due to the extent of tree removal proposed. It is recommended that an alternative design be sought.</p> <p>The site is also noted to be Category 2 - Very High potential for sites of Aboriginal significance. Two sites are recorded on or adjacent to the site.</p> <p>It is recommended that referral to the AHO should be sought prior to any approval being granted.</p> <p>Based on the Landscape Plans and Architectural Plans provided, conditions have been provided if the proposal is to be approved, subject to a clarification of civil works proposed and retention of trees.</p>
Natural Environment - Biodiversity	<p><b>Supported – subject to conditions</b></p> <p>The potential impacts to native vegetation have been quantified, and as a result the area threshold has been triggered, the Biodiversity Development Assessment Report (BDAR) has been revised, and a Biodiversity Offset calculated in accordance with the Biodiversity Assessment Method. The BDAR has correctly considered and addressed prescribed impacts as well as the potential for a serious and irreversible impacts in accordance with the legislation and methodology. A range of mitigation measures are proposed, and the biodiversity credits obligation as calculated will be included as conditions of the consent.</p>
Natural Environment – Riparian Lands and Creeks	<p><b>Supported – subject to conditions</b></p> <p>This application has been assessed under:</p> <ul style="list-style-type: none"> <li>• Warringah DCP 2011 C4 – Stormwater (water quality)</li> <li>• Warringah DCP 2011 C5 – Erosion and Sedimentation</li> <li>• Warringah Council PL 850 Water Management Policy.</li> </ul> <p>The application proposes a stormwater detention/bio-retention basin for the management of stormwater quality. This basin has been assessed and meets the requirements of the controls. Conditions apply in terms of detailed design, management during and following construction, and legal restrictions.</p> <p>It is expected that groundwater will be intercepted during construction. Dewatering conditions apply. A referral has been made to WaterNSW and they have provided General Terms of Approval. A dewatering management plan must be submitted and a permit obtained from Council before applying to WaterNSW for an aquifer interference approval. Particular focus will be on groundwater being treated for pH and metals prior to discharge.</p> <p>The sediment and erosion control plan must be implemented prior to any</p>

Internal Referral Body	Comments
	demolition or disturbance of soil on site and maintained until all work is complete and groundcover re-established.
Parks, Reserves and Foreshores	<b>Supported</b> There are no anticipated impacts on nearby public reserves from the proposal.
Traffic Engineer	<p><b>Supported – subject to conditions</b> The proposal is for the demolition of existing building and construction of Warehouse units.</p> <p><b>Traffic:</b> The assumptions made in the applicants traffic report related to the potential of the current development versus the proposed development are deemed satisfactory.</p> <p>With a net reduction in traffic generated, Council raises no objection. However, due to the expected impact of the potential traffic (based on the fact that the site currently does not produce many movements) the application should be referred to the RMS for concurrence (particularly regarding the ongoing operation of the signals at the intersection of Pittwater Road and South Creek Road).</p> <p><b>Parking</b> The applicant is proposing 231 parking spaces.</p> <p>This is deemed acceptable provided the uses on-site are limited to;</p> <ul style="list-style-type: none"> <li>- Warehouse</li> <li>- Storage Premises</li> <li>- Ancillary offices</li> <li>- Cafe</li> </ul> <p>Therefore, Council’s Traffic Team are satisfied with the provision of parking at the RMS required rate of 231 spaces in this instance, based on the similarity between figures of the RMS requirement and Council requirements.</p> <p><b>Access and Carpark</b> The configuration and swept paths appear to meet the requirements of AS2890.</p> <p>No objections are raised.</p> <p><b>Servicing</b> As this is a commercial site, the applicant is required to ensure a commercial contractor is engaged to service the site. Based on the swept paths provided, the site can adequately accommodate the majority of service vehicles. However, a loading bay management plan will be required via condition of consent to ensure all servicing is undertaken with an appropriately sized vehicle.</p> <p><b>Pedestrians</b> Based on a low speed environment, the internal arrangements are deemed adequate.</p> <p>The applicant will be required to install/upgrade the footpath along the all frontages of the site to improve pedestrian safety, particularly as there will be a large number of movements entering/exiting the site, coupled with the fact that the site is within a school zone.</p> <p><b>Conclusion</b> Council's Traffic Team raise no objections.</p>
Urban Design	<b>Supported</b> The proposal has addressed satisfactorily all the issues brought up in the previous urban design referrals.

Internal Referral Body	Comments
Waste	<b>No referral response required</b> Industrial DA, thus no waste referral required.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Ausgrid has no objection to the DA, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.  The “as constructed” minimum clearances to Ausgrid’s infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances on site.
Water NSW	The application was referred to Water NSW as Integrated Development under Section 91A (3) of the EPA Act 1979, requiring water supply work approval under the <i>Water Management Act 2000</i> (WM Act).  Water NSW by letter dated 26 February 2020, issued their General Terms of Approval, which are to be included as conditions of consent.
Aboriginal Heritage	Aboriginal Heritage has raised no objection to the proposed development subject to conditions.
Transport for NSW	TfNSW has reviewed the submitted application and raises no objection to the proposed works. TfNSW has the following comments for council’s consideration:
NSW Environmental Protection Authority (EPA)	NSW EPA has reviewed the submitted application in relation to contamination issue relating to the site and raises no objection to the proposed works subject to conditions.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### State Environmental Planning Policies (SEPPs)

A further consideration is required for the following State policies:

#### SEPP (State and Regional Development) 2011

The proposed development does not constitute State Significant Development under State Environmental Planning Policy (State and Regional Development) 2011.

Of more relevance, Clause 20 of this policy cross-references Schedule 7 of the EP&A Act 1979, which identifies a range of developments that, either due to their nature, scale, value, impact or location, are deemed to be of regional significance and which, as a result, require that the SNPP become the consent authority.

In this regard, Schedule 7 (2) indicates that development that has a CIV of \$30 million are of regional significance. As indicated on the DA form and as confirmed by a quantity surveyors report

accompanying the application, the proposed development has a CIV of \$44 million. As such, the consent authority for the application is the SNPP.

### **State Environmental Planning Policy No. 55 – Remediation of Land**

State Environmental Planning Policy No. 55 – Remediation of Contaminated Lands (SEPP 55) establishes State-wide provisions to promote the remediation of contaminated land.

The SEPP 55 states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals. The Managing Land Contamination: Planning Guidelines were prepared to assist councils and developers in determining when land has been at risk.

Clause 7 of the SEPP 55 requires that a consent authority must not grant consent to a development if it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or will be after undergoing remediation) for the proposed use.

The subject site contains three (3) contaminated areas:

1. **Part A – Unregulated Area** – asbestos impacted fill material;
2. **Part B – Regulated Area** – TCE and benzene present in groundwater both on and off-site; these impacts are regulated by the NSW Environment Protection Authority (EPA), via a Voluntary Management Proposal (VMP) under the provisions of the Contaminated Land Management Act 1997 (CLM Act);
3. **Part B – Unregulated Area** – petroleum hydrocarbon plume from former underground storage tanks, removed in 1997.

The applicant has advised that the process of undertaking the necessary remediation works is being undertaken in consultation with NSW EPA. The application was also referred to Council's Environmental Health Officer and NSW EPA whom have raised no objection to the proposal subject to conditions.

Accordingly, the land is considered to be suitable (following remediation) for the proposed use and development subject to conditions.

### **SEPP 64 - Advertising and Signage**

Clause 13 of the SEPP states that a consent authority must not grant development consent to an application to display signage unless the advertisement of advertising structure:

- a) Is consistent with the objectives of this policy as set out in clause 3(1) (a);
- b) Has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impact; and
- c) Satisfies any other relevant requirement of this Policy.

The proposed development also seeks consent for a series of advertising signs, including:

- on retained hexagonal tower
- at entries/exits on South Creek Road and Inman Road
- at the corner of South Creek Road and Inman Road

- on warehouse units

This includes, one (1) pylon sign and twenty (20) separate wall signs.

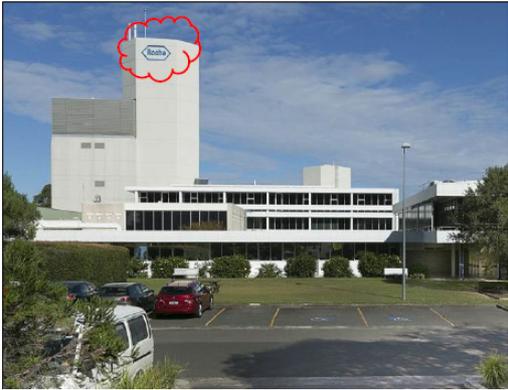
The proposed pylon sign is located at the corner of Inman Road and South Creek Road has a maximum height of approximately 7.9m and face area of approximately 19m<sup>2</sup>.

The proposal involves twenty (20) wall signs of varied dimensions and content, which includes:

- Seven (7) wall signs placings along the perimeter of the proposed development;
- One (1) wall sign facing Inman Road on the side of proposed Warehouse 1 (1.4m x 0.6m);
- One (1) double sided wall sign on the retained hexagonal tower (3.6m x 8.4m); and
- Eleven (11) wall signs representing each warehouse unit (1.3 x 2.2m).

The proposed development has been assessed using the assessment criteria in Schedule 1 below and overall, the proposed signage locations and size are considered to be compatible with the desired amenity and visual character of the area. The potential impacts are considered to be acceptable and consistent with the requirement of the SEPP.

Matters for Consideration	Comment	Complies
<p><b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The proposed development includes business (identification) and wayfinding signage. The signage is necessary to help identify and locate the facility. It comprises a coordinated suite of signage which is appropriate in scale and integrated with the development. It is compatible with the existing and future character of the area.</p>	<p>Yes</p>
<p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>Although the signage does not involve any advertising, its design is compatible with other wayfinding and business signage in the area.</p>	<p>Yes</p>
<p><b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>The proposed signage does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.</p> <p>It is noted that the subject site contains three items of heritage. The proposed development has retained the heritage significance of the site and achieved a design that harmonises with the retained heritage buildings. Further the proposed signage has also been designed to complement the heritage and architecture, through the use of similar colours and materials.</p>	<p>Yes</p>
<p><b>3. Views and vistas</b> Does the proposal obscure or compromise important views?</p>	<p>No important views are impacted by the proposed signage.</p>	<p>Yes</p>
<p>Does the proposal dominate the skyline and reduce the quality of vistas?</p>	<p>The proposed signage on the retained hexagonal tower does project into the skyline, however this proposal achieves a similar outcome to the former <b>Roche</b> signage that had place in the same location. The hexagonal tower is proposed to be retained as an</p>	<p>Yes</p>

Matters for Consideration	Comment	Complies
	<p>item of heritage. The proposed signage in isolation does not attain to reduce the quality of vistas.</p> 	
Does the proposal respect the viewing rights of other advertisers?	There is no impact on the viewing rights of other advertisers.	Yes
<p><b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</p>	As noted above, the signage is low key and subservient to the overall development. The scale, proportion and form of the signage are compatible with the streetscape and do not detract from the surrounding setting.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage will assist in providing visual interest to the development. This is particularly important to identify the use and entry points to the facility.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal involves a coordinated suite of signage that is simple, clear and uncluttered. It will not result in excessive signage.	Yes
Does the proposal screen unsightliness?	The signage is not intended to screen unsightliness.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage on the retained hexagonal tower does protrude above the buildings, however this proposal achieves a similar outcome to the former Roche signage that had place in the same location. The hexagonal tower is proposed to be retained as an item of heritage and a similar advertising outcome is sought as a wayfinding attribute.	Yes
<p><b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</p>	As noted above, the signage has been designed as an integral part of the buildings and its surrounds. The different forms of signs, their location and design are appropriate to the intended message and their relationship to the building and landscape.	Yes
Does the proposal respect important features of the site or building, or both?	As noted above, the signage is subservient to the building and does not impact on important architectural or landscape features.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage has been designed as a compatible component of the overall facility.	Yes
<p><b>6. Associated devices and logos with advertisements and advertising</b></p>	Some of the signs will be backlit. In these instances, lighting will be integrated into the sign design.	Yes

Matters for Consideration	Comment	Complies
<b>structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?		
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	As noted above, some of the signs will be backlit but the level of illumination will be modest and will not result in unacceptable glare, considering its location within the business park.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The signs have the potential to be adjusted if necessary.	Yes
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	Because of the nature of the signage, it is not expected that the signs will impact on road, pedestrian or bicyclist safety. In particular, the signs will remain static and will not create glare.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signs will not impact on sightlines from public areas.	Yes

## State Environmental Planning Policy (Infrastructure) 2007

### Clause 45 – Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any DA (or an application for modification of consent) for any development carried out:

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation;*
- *Within 5m of an overhead power line;*
- *Includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.*

The proposal was referred to Ausgrid. Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

### Clause 104

Clause 104 'Traffic Generating Development' of the SEPP Infrastructure requires the application be referred to the Transport NSW (Former RMS) within seven days, and take into consideration any comments made within 21 days, if the development is specified in Schedule 3 of the SEPP Infrastructure.

Schedule 3 of SEPP Infrastructure requires that the following developments are referred to the Transport NSW as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Any development purpose	200 or more vehicles	Any size and capacity

The development consists of 231 vehicle parking spaces. The application was referred to Transport for NSW for comment as Traffic Generating Development under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007.

Transport for NSW has provided their response, which raises no objection to the proposed development subject to conditions.

### Draft State Environmental Planning Policy Remediation

As discussed above with regards to SEPP 55, the site is considered to be suitable for the proposed development.

### WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011

Is the development permissible?	Yes (please refer to discussion below for breakdown of each uses permissibility)
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

### Zoning and Permissibility

<p><b>Definition of proposed development:</b> (ref. WLEP 2011 Dictionary)</p>	<p>(i) <b>Warehouse or distribution centre</b> means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.</p> <p>(ii) <b>Storage premises</b> means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment or a warehouse or distribution centre.</p> <p>(iii) <b>Office premises</b> means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.</p>
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	(i) <b>Restaurant or cafe</b> means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.
<b>Zone:</b>	ING – General Industrial Zone
<b>Permitted with Consent or Prohibited:</b>	<b>Warehouse or distribution centre</b> – permitted with consent <b>Storage premises</b> – permitted with consent <b>Officer premises</b> – prohibited (refer to discussion below) <b>Restaurant or café</b> – prohibited (refer to discussion below)

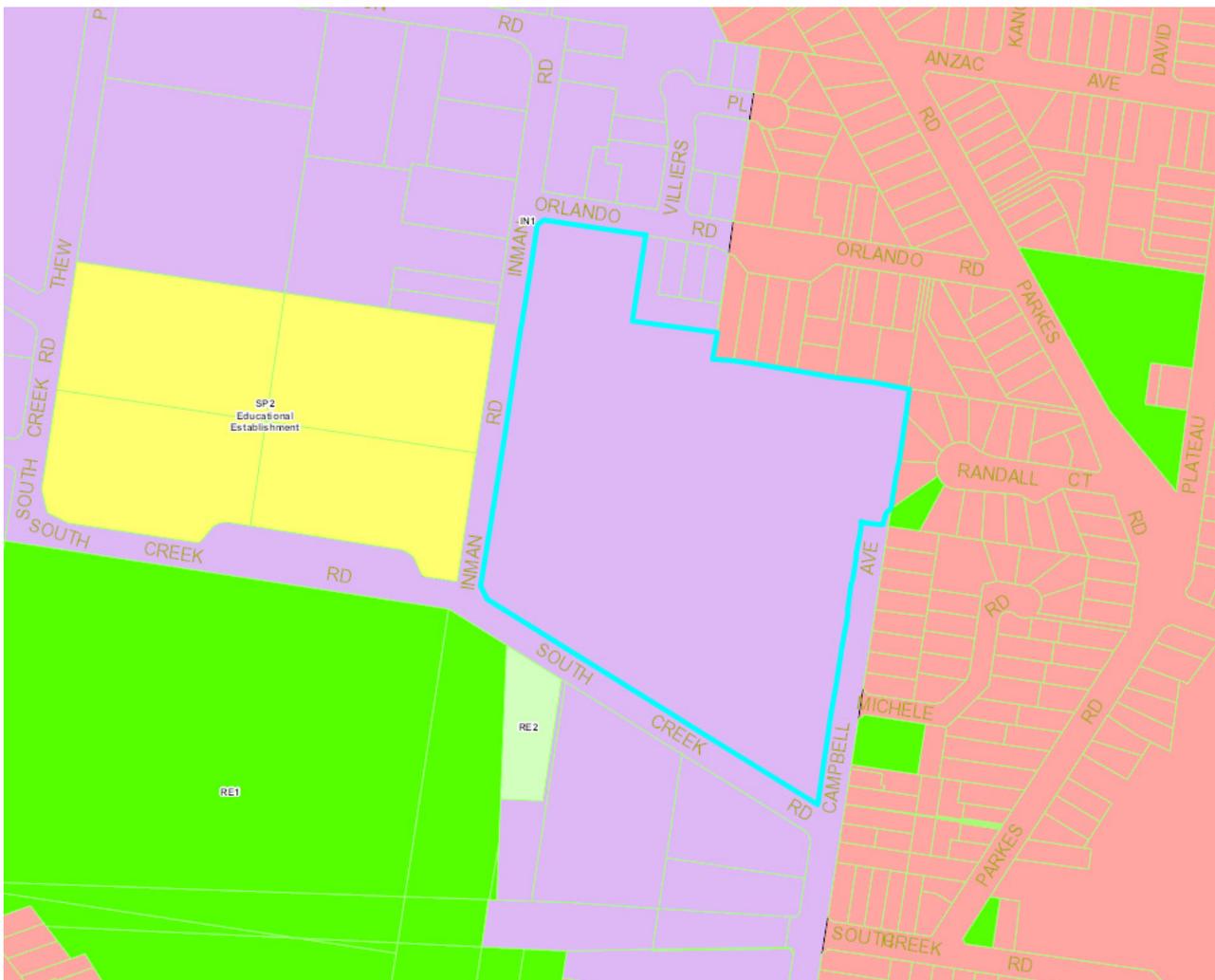


Figure 4 – Extract of Zoning Map under WLEP 2011 (site outlined in blue)

### Permissibility

The proposed development involves the following land uses, which are ‘prohibited’ in the IN1 zone.

- **Office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.
- **Restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the

*premises, whether or not liquor, take away meals and drinks or entertainment are also provided.*

The applicant is relying on Clause 5.10(10) of the WLEP 2011 to overcome the prohibition issue. In this regard, Council's Heritage Officer has raised no objection to the above uses by way of Clause 5.10(10) Conservation Incentives, as the introduction of such a use will make the office component more attractive to tenants and also the cafe will act as a vehicle to increase the accessibility and visibility of these heritage buildings for the general community.

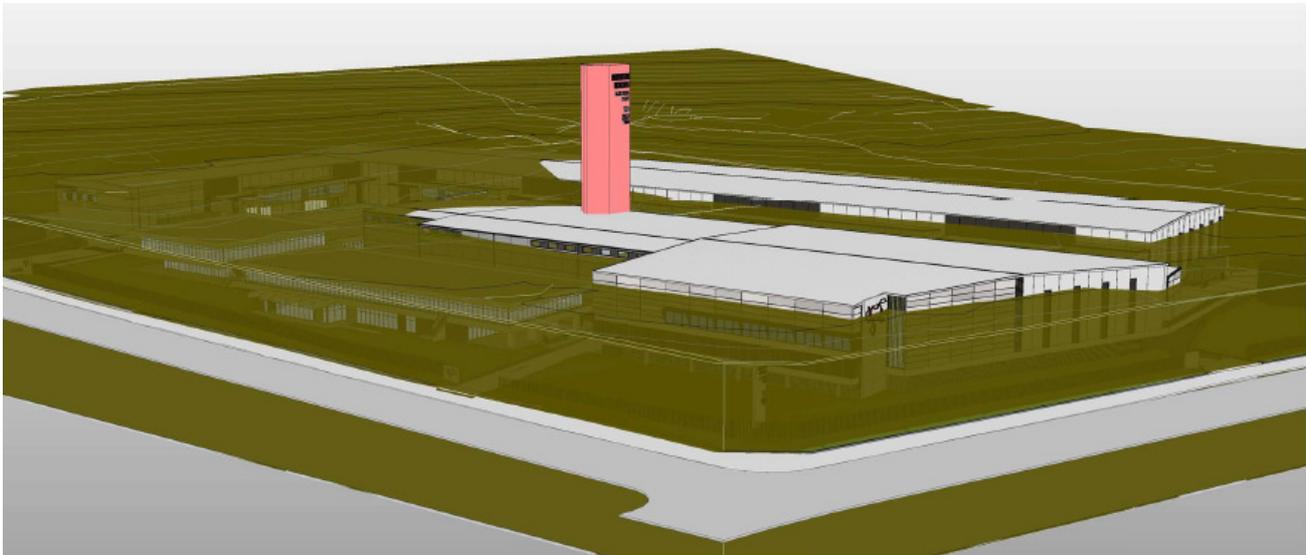
### **Compliance Assessment**

<b>Clause</b>	<b>Compliance with Requirements</b>
Part 1 Preliminary	Yes
5.10 Heritage conservation	Yes
6.5 Coastline hazards	Yes
Schedule 5 Environmental heritage	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes (refer to discussion below)
<b>Part 5 Miscellaneous Provisions</b>	
5.10 – Heritage conservation	Yes (refer to Heritage comments in the referral section of the report)
5.9 Preservation of trees or vegetation	Yes
<b>Part 6 Additional Local Provisions</b>	
6.2 Earthworks	Yes (refer to discussion below)
6.3 Flood planning	Not Applicable
6.4 Development on sloping land	Yes (refer to discussion below)

### **Detailed Assessment**

#### **Principal Development Standards**

<b>Relevant Development Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Variation (%)</b>	<b>Compliance</b>
<b>Clause 4.3 Height of Buildings</b>	11.0m	13.83m	25.73%	No



**Figure 5 - Areas of Building Height non-compliance are shown in white, with pink showing existing Roche tower to be retained (Source: SBA Architects, 2019)**

## **Building Height**

A maximum building height of 11.0m is permitted under WLEP 2011. A maximum building height of 13.83m is proposed representing a variation of 2.83m or 25.73%.

Clause 4.6 of WLEP 2011 allows for exceptions to development standards. Under Clause 4.6, consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard.

The applicant has provided a written request seeking a variation to the development standard which is included as an attachment to this report (Attachment 3). Under Clause 4.6(3), the written request is required to demonstrate:

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

A recent judgement of the NSW LEC in *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 provides direction to the consent authority that they may need to satisfy themselves in fact form a view as to whether the matters in Clause 4.6(3) (a) and (b) are met and not simply rely on the applicant to do so. It is not enough for the applicant to simply cover the matters or that an argument had been advanced.

As such, the following assessment against Clause 4.6 presents both the applicant's argument and an assessment of that argument to ensure that Clause 4.6 is wholly considered:

### Clause 4.6 Exceptions to Development Standards:

(1) *The objectives of this clause are as follows:*

- a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment:

Clause 4.3 – Height of Buildings development standard is not expressly excluded from the operation of this clause.

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

**Clause 4.6 (4)(a)(i) (Justification) Assessment:**

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment:

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 *at* [26]. *The adjectival phrase*

*“environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.’*

**s 1.3 of the EPA Act reads as follows:**

**1.3 Objects of Act (cf previous s 5)**

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant’s written request argues, in part:

*“The Development Standard is unreasonable and unnecessary in the circumstances of the proposed development on the following basis:*

- The current topography of the subject site is considered a key environmental reason as to why strict compliance with Clause 4.3 cannot be achieved. The land slopes in a southerly direction, from an RL of 37m in the north-eastern corner of the site, down towards an RL of 13m at South Creek Road, resulting in a fall approximately 24m over the site. Due to the variation in topography, it is noted that the proposed development would not result in a 13.954m tall warehouse building across the whole of the site.*
- The subject site and potential development footprint is restricted by the presence of and desire to retain existing vegetation (including significant bushland environments), the location of the existing drainage corridor, and depth of the current water table.*
- The proposed development therefore seeks to support the sympathetic reuse of the subject site, including maintenance of the industrial character of the land in its existing landscaped setting. However, there is very limited demand for activities that could be accommodated in existing premises, therefore partial demolition and the construction of a multi-warehouse development is proposed.*
- The proposed development would involve the construction of multi-unit warehouse, including ancillary works, and the adaptive re-use of the former Roche office building and cottage. The proposed multi-unit warehouse would vary in height, due to the topography of the land.*
- The proposed development would generally maintain the maximum permitted building height, under WLEP2011, of the subject site (exceedance by a maximum of only 2.954m afforded by the land topography). Accordingly, the density and scale of the built-form proposed, would remain consistent with the existing premises and surrounding industrial uses. Additionally, the proposed development would effectively integrate the streetscape*

*and character of the area into the proposed scheme. It is noted, that the height breach pertains to a limited portion of the subject site and would be adequately screened by existing mature vegetation/landscaping and additional soft landscaping.*

- *The proposed built-form character is generally consistent with the built-form of the former Roche premises; comparative images are included in the Statement of Environmental Effects.*
- *The proposed development's building height is considered a key attribute in creating an internal building environment that would ensure the delivery of space and amenity that is required to support the operations of the future tenants involved and thereby enabling the productive use of the subject site.*

*Notwithstanding, reducing the height of the proposed design to strictly meet the WLEP2011 Development Standard is considered unreasonable, as this would result in a less efficient use of the subject site, as well as being unsound for future end-users from an operational perspective. Further, a reduced height may result in a building design that does not respond as well to the subject site's heritage character and prevailing topography, which the proposed heights have been so strategically based on.*

*Compliance with Clause 4.3 would be unreasonable given that the proposed development has been designed to make the most out of the subject site's heritage attributes, whilst also offering a suitable level of protection to existing vegetation (including significant bushland environments), the location of the existing drainage corridor. A different site configuration would have likely resulted in a less efficient use of these site-specific opportunities and would have guaranteed a lesser level of protection to the existing attributes of the site. Use of a different site would have meant that suitable industrially zoned land is not developed to its full planning potential.*

*The abovementioned justifications are considered valid and, in this instance, the proposed Clause 4.6 Variation is considered acceptable. The objectives of the relevant clauses and the IN1 General Industrial zone would be upheld as a result of the proposed development."*

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Accordingly, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

#### **Clause 4.6 (4)(a)(ii) (Public Interest) Assessment:**

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

#### **Comment:**

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the IN1 – General Industrial zone.

## Objectives of the Building Height Standard

An assessment against these objectives is provided below.

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the WLEP 2011 are:

(1) The objectives of this clause are as follows:

*a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*

### Comment:

The proposed development involves construction of multi-unit warehouse, including ancillary works, and the adaptive re-use of the former Roche office building and cottage. The height breach of the development is towards South Creek Road (southern interface), which results from the falling topography towards the south.

The proposed warehouse building at the south-west corner of the subject site will be lower in scale than the existing building and has been designed to complement the retained former Roche office building.

The built form proposed will ensure the development fits comfortably within its local context. The overall height and scale of the proposed development is not considered excessive and is consistent with the remainder of the development that will be retained within the site.

The proposed development is considered, in its design, to be compatible with the height and scale of surrounding and nearby development.

The proposed height and scale of the buildings is considered to be an improved design outcome for the site and is consistent with that envisaged for the site.

The development is considered to be consistent with this objective.

*b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*

### Comment:

The proposed development raises no significant external amenity impacts on adjoining developments in terms of loss of views, privacy, solar access or overshadowing.

The non-compliance with the building height is limited to the southern portion of the site, which is located well away from the northern R2 Low Density Residential zone. It is therefore considered that the proposed contravention would have no impact on nearby residential housing.

The development is considered consistent with this objective.

*c) to minimise adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,*

### Comment:

The development will not have an unreasonable impact on the scenic quality of Northern Beaches coastal and bush environments. The buildings are broken-up through variation of the building form and use of appropriate colours and finishes, which are consistent with the surrounding coastal and bush environment and will assist in reducing any impact on these environments.

*d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,*

Comment:

The substantial articulation of the built form, including the use of high-quality materials and finishes, will ensure the development will not have an unreasonable visual impact when viewed from the adjoining and nearby public spaces.

**Objectives for the IN1 General Industrial zone**

The underlying objectives of the IN1 General Industrial zone are:

- *To provide a wide range of industrial and warehouse land uses*

Comment:

The proposed land uses which includes additional warehouse units, self-storage units with office and café is consistent with the objective in that it is designated for industrial purposes and will contribute to the desired industrial character intended for the subject site, whilst integrating with the existing heritage characteristics of the site.

- *To encourage employment opportunities*

Comment:

The proposed development would provide employment-generating opportunities during both the construction and operational phases of development.

- *To minimise any adverse effect of industry on other land uses*

Comment:

The site is located in a commercial/industrial area. The development will not unreasonably impact on the surrounding land use as detailed within this report.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the IN1 zone.

**Clause 4.6 (4)(b) (Concurrence of the Secretary) Assessment:**

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument.

In this regard, given the consistency of the variation with the objectives of the zone and the height standard, the concurrence of the Secretary for the variation to the Height of buildings Development Standard is assumed by the Sydney North Planning Panel.

**Clause 6.2 - Earthworks**

The objectives of Clause 6.2 - 'Earthworks' require development:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) *to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

*(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

*(b) the effect of the proposed development on the likely future use or redevelopment of the land*

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

*(c) the quality of the fill or the soil to be excavated, or both*

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(d) the effect of the proposed development on the existing and likely amenity of adjoining properties*

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

*(e) the source of any fill material and the destination of any excavated material*

Comment: The excavated material will be processed according to the *Waste Management Plan* for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

*(a) the likelihood of disturbing relics*

Comment: The site is not mapped as being a potential location of Aboriginal or other relics.

*(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area*

Comment: The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WLEP 2011, WDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in relation to earthworks.

#### **Clause 6.4 - Development on Sloping Land**

The site has been identified as being within 'Areas A, D and E' on Council's Landslip Risk Map, Clause 6.4 of the WLEP is relevant as the proposal includes excavation works. In this regard, the applicant has submitted a Geotechnical Report, prepared by JK Geotechnics in accordance with requirements of this clause.

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

*(a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and*

Comment: The applicant has submitted a Geotechnical Assessment Report prepared by a suitably qualified geotechnical expert. This report concludes that the proposed development is acceptable from a geotechnical perspective and therefore, Council is satisfied that the development has been assessed for the risk associated with landslides in relation to both property and life.

*(b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and*

Comment: The applicant's Geotechnical Assessment report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

*(c) the development will not impact on or affect the existing subsurface flow conditions.*

Comment: The applicant's Geotechnical Assessment report concludes that the proposed development is acceptable from a geotechnical perspective. The application has also been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to approval, subject to conditions.

Therefore, Council is satisfied that the development will not result in adverse impacts or effects on the existing subsurface flow conditions.

## DEVELOPMENT CONTROL PLAN

### WARRINGAH DEVELOPMENT CONTROL PLAN

#### Built Form Controls

#### **Built Form Controls**

Part B: Built Form Controls			
Relevant Control	Requirement	Proposed	Compliance
B5 Side Boundary Setbacks	Merit	8.7m (northern boundary)	YES (acceptable on merit)
B7 Front Boundary Setbacks	4.5m	<ul style="list-style-type: none"> <li>8.0m from Inman Road to the existing cottage; and</li> <li>10.0m from South Creek Road to the proposed</li> </ul>	Yes

		multi-unit warehouse.	
B9 Rear Boundary Setbacks	Merit Assessment	Not applicable as the site has dual frontages	N/A

**Detailed Assessment against Relevant Clauses with the WDCP:**

Clause	Compliance with Requirements	Consistency Aims/Objectives
<b>Part A Introduction</b>		
<b>A.5 Objectives</b>	Yes	Yes
<b>Part B Built Form Controls</b>		
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary setbacks	Yes	Yes
<b>Part C Siting Factors</b>		
C2 Traffic, Access and Safety	No	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Mixed Use Premises (Residential/Non-Residential)	Yes	Yes
<b>Part D Design</b>		
D1 Landscape Open Space and Bushland Setting	N/A	N/A
D2 Private Open Space	N/A	N/A
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
<b>Part E The Natural Environment</b>		
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or high conservation habitat	Yes	Yes
E5 Native vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E8 Waterways and riparian lands	Yes	Yes
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **Clause C3- Parking Facilities**

Appendix 1 of the WDCP 2011 requires the development provide on-site car parking at the following rates (note: required car parking spaces are rounded up):

Component	Required	Provided	Compliance
Warehouse or distribution centre	1.3 spaces per 100 m <sup>2</sup> GFA  (including up to 20% of floor area as office premises space component. Office premises component above 20% determined at office premises rate).  202 spaces for 15,505m <sup>2</sup> required	202 spaces provided  Note: The mezzanine office space for the 11 units will account for less than 15% of the floor area, therefore no separate consideration of office floor area is required.	Yes
<b>Self - Storage Facility</b>	No rate provided under WDCP – therefore RMS guide is used which requires 1 per 300m <sup>2</sup>  13 spaces required for 3,902m <sup>2</sup>	13 spaces provide	Yes
<b>Office premises</b>	1 space per 40 m <sup>2</sup> GFA.	10	No

Component	Required	Provided	Compliance
	79 spaces required for 3,179m <sup>2</sup>		
<b>Café/ Restaurant</b>	15 spaces per 100 m2 GFA 19 spaces for 124m <sup>2</sup>	6	No
<b>Total</b>	<b>313 spaces</b>	<b>213 spaces</b>	<b>-100 spaces</b>

The proposal provides a total of 231 car parking spaces, with the breakdown of car parking spaces as follows:

- At-grade car parking – 72 spaces including nine visitor parking spaces
- Basement car parking – 159 spaces.

As demonstrated in the table above, the proposal is 100 spaces deficient when calculated against the WDCP requirement for car parking.

To address the non-compliance, the proposal is accompanied by a Parking and Traffic Impact Assessment report, prepared by GTA Consultants. The report states that rather than adopting the WDCP rate, it is more appropriate for the development to adopt the RMS rate for this development, given that there are no confirmed tenants for the individual warehouse units and the self-storage facilities typically require less staff than traditional warehouse facilities, whilst users have access to the facility 24 hours/7 days a week.

The GTA report considers a mix of warehouse and light industrial tenants (70% warehouse/ 30% light industrial, based on market understanding and preliminary leasing arrangement) to determine the expected parking demand generated by the proposal. The GTA assessment acknowledged the balance of warehouse and light industrial/factory uses will influence the demand and it was also unlikely that the mix will be skewed to either end at a given point in time.

The GTA report suggests that the proposal will generate a demand for 228 spaces based on the anticipated parking demand which aligns with RMS guide rate for warehouse uses, as summarised in the table below

Land Use	Warringah DCP Parking Rate	Parking Requirement	Proposed Provision
Self-Storage	1 space per 300 sqm (RMS warehouse rate)	13	<b>231 spaces</b>
Warehouse (70% of units)	Warehouse - 1 space per 300 sqm (RMS Rate) Mezzanine Office - 1 space per 40 sqm	68 spaces (36 + 32 spaces)	
Industry (30% of units)	1.3 spaces per 100 sqm (incl. mezzanine office)	68	
Office	1 space per 40 sqm	79	
Café	<i>Ancillary to overall development (infrequent external trips expected)</i>		
Total		<b>228 spaces</b>	

**Table 1: Anticipated Parking Demand Table (Source: GTA Traffic Report)**

The Traffic Report states that the Café is ancillary to the proposed development and will also cater for the surrounding area (i.e. school, sports fields and other industrial uses), with a predominant walk-up catchment. As such, it is not expected to be a vehicle trip destination in itself.

The report concludes that for a development to rely on 50 to 60 per cent of the available site frontage(s) to accommodate parking demand, which promotes on-street activation and traffic calming. With the proposal anticipated to generate car parking demand for 12 spaces more than provided on-site, it would be reasonable for this demand to use on-street parking noting the high parking availability along

the site frontages since the closure of the previous on-site use and limited parking demand from other nearby uses (school and sports fields having different peaks).

Council's Traffic Engineer supports the GTA assessment for appropriate use of some on-street parking along the site frontages (40 spaces available). An assessment of the car parking provisions, having regard to the requirements under WDCP 2011 has been undertaken by Council's Traffic Engineer. In summary, Council's Traffic Engineer has raised no objection to the proposed number of parking spaces and concludes that the proposed 231 parking spaces are considered adequate and capable of accommodating the parking demand of the proposed development.

Therefore, the development is acceptable with regards to car parking.

### **D3 Noise**

The proposal is accompanied by an Acoustic Impact Assessment Report (prepared by Acoustic Dynamics). The report has been reviewed by Council's Environmental Health (Acoustic) Officer who has raised no objections to the proposal subject to conditions.

The report recommends a number of measures be undertaken to mitigate the potential acoustic impacts of the use of the proposed buildings. This includes the incorporation of broadband reversing alarms on the forklifts used on site.

The broadband reversing alarm would reduce the tonal aspects of the traditional beeping alarm and would maintain the safety of the workers on site. Additionally, it is recommended that all external forklift activity does not commence before 7.00am and cease before 10.00pm.

Included in the recommendation of this report are conditions requiring compliance with the recommendations of the Acoustic Impact Assessment Report.

### **Clause D23 - Signs**

The objectives of D23 are:

- *To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*
- *To achieve well designed and coordinated signage that uses high quality materials.*
- *To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*
- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*
- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

A detailed assessment of the proposed signage has been provided earlier in the report in relation to SEPP 64 – Advertising and Signage. The assessment indicates that the signage is appropriate and consistent with the provisions under SEPP 64. Similarly, it is considered that the proposed signage is consistent with the objectives of the Warringah DCP.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

This section requires a range of matters to be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

Section 1.3 of the EPA Act, 1979 contains the relevant provisions for the assessment of biodiversity issues for all applications. The matters for consideration under section 1.3 include a range of matters that must be considered and Council is required to adopt a conservative approach in its determination of the biodiversity value.

The proposal has been reviewed by officers in Council's Natural Environmental Unit who have raised no objections subject to conditions included in the recommendation of this report.

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contribution Plan 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$445,900 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$44,590,000.

## **CONCLUSION**

This report provides a comprehensive assessment of the DA for the construction of alterations and additions to the existing industrial facility, including warehouse, industry and self-storage, office premises and ancillary cafe.

The application has been considered against the relevant matters for consideration under Section 4.15 of the EP&A Act 1979. This assessment has taken into consideration the plans and all documentation submitted with the application, all referral responses received from relevant stakeholders and all community submissions received during the public exhibition periods.

The assessment of this application found that the planning, urban design, character, landscaping, traffic, stormwater and services infrastructure issues have been satisfactorily addressed and the noise impacts can be appropriately managed and mitigated, subject to suitable conditions.

Additionally, the assessment also concludes that the built form of the proposed development is acceptable within the context of the site, and would not result in any significant adverse environmental or amenity impacts. The traffic and parking generated by the proposed development can be accommodated within the site and the local traffic network.

The development has been found to be consistent with the Aims of the WLEP 2011 and consistent with the Objectives of Clause 4.6 - Exceptions to Development Standards with regard to a variation to the building height standard. The Clause 4.6 Variation is supported for the reasons detailed in this report.

One submission received in relation to traffic impacts has been considered in detail pursuant to Section 4.15 of the EP&A Act 1979 and the relevant local planning controls. The raise raised does not warrant refusal of the application or further amendment to the proposal.

In summary, the proposal is supported, subject to conditions to ensure consistency with the Warringah DCP 2011 and Warringah LEP 2011. This includes conditions to address noise management, erosion measures, fire and accessibility and managing the construction related activities.

Accordingly, it is recommended that the Sydney North Planning Panel (SNPP) approve the application.

## **RECOMMENDATION (CONSENT)**

That Sydney North Planning Panel as the consent authority vary the clause 4.3 Height of Building development standard pursuant to clause 4.6 of the WLEP 2011 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly, the Sydney North Planning Panel, as the consent authority, grant Development Consent to Development Application No. DA2019/1346 for demolition works and alterations and additions to an existing industrial facility, including new warehouse, industry and self-storage, office premises and ancillary cafe at Lot 1 DP 1220196, 4 - 10 Inman Road Cromer, subject to the conditions as contained in Attachment 3.