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NSW Department of Planning & Environment  
320 Pitt Street  
Sydney NSW 2000

**Attention: Kelly McNicol**

**Section 4.55(1A) Modification Application (SSD 7173) 579 Mamre Road, Orchard Hills –  
Proposed Stormwater Channel Realignment and Lot 5 Expansion Works**

**Lot 2 DP 1233392 & Lot 2171 DP 1153854**

Dear Kelly,

This Modification Application is submitted to the NSW Department of Planning & Environment (NSW DP&E) on behalf of Altis Property Partners and relates specifically to Lot 2 DP1233392 & Lot 2171 DP 1153854.

Approval to State Significant Development (SSD) 7173 was granted by the Minister for Planning on 15 December 2016 for bulk earthworks and the construction and operation of a Warehouse and Logistics Hub.

Modification 1 to SSD 7173 was approved on 15 August 2017 which included changes to the layout and configuration of the approved warehouses on Lot 8A, 8B1 and 8B2. Modification 2 to SSD 7173 was approved on 20 December 2017 which included amendments to the development description, amendments to the subdivision layout and configuration of the site and the proposed relocation of turning head within the estate road network. The initial modification application included the proposed realignment of a drainage channel on Lot 2 DP 1233392; however, due to owner's consent being unobtainable at the time the proponent requested that this element be removed from the application until later advised. The proposed development as modified (SSD 7173 MOD 2) includes:

Construction and operation of a Warehouse and Logistics Hub over four (4) stages, comprising the following:

- Subdivision of the site to create nine (9) industrial allotments ranging in size between 2.06 hectares and 7.9 hectares and to create a lot approximately 20 m wide along the site's frontage with Mamre Road (for the purpose of widening);
- Three (3) warehouse buildings ranging in size between 9,400 m<sup>2</sup> and 41,500 m<sup>2</sup>, including office;
- 357 car parking spaces;
- Bulk earthworks, infrastructure and services;
- An internal access road from Mamre Road to the site's northern boundary; and,
- Intersection works between Mamre Road and an internal estate road.

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This application represents the **third** Modification Application to SSD 7173, which seeks to make amendments to the existing estate drainage channel, facilitated by the creation of a newly proposed and revitalised drainage channel surpassing the current one along the northwest portion of Lot 2 DP 1233392.

The amendments sought have been assessed against the original Secretary's Environmental Assessment Requirements (SEARs) throughout this Modification Application.

Attached to this submission are the following specialist reports and plans:

- **Appendix 1 – Civil Drawings**
- **Appendix 2 – Amended Subdivision Plan**
- **Appendix 3 – Ecological Review Letter**
- **Appendix 4 – Civil Engineering Report**
- **Appendix 5 – Overland Flow Report**
- **Appendix 6 – Geotechnical Report**
- **Appendix 7 – Bushfire Assessment**

Should you require further information, please contact the undersigned.

Yours Faithfully,



Travis Lythall  
Town Planner  
Willowtree Planning Pty Ltd

## Section 4.55(1A) – SSD 7173 (MOD 3)

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### 1. DEVELOPMENT HISTORY

Consent was granted to SSD 7173 on 15 December 2016 for the construction and operation of a Warehouse and Logistics Hub at 585-649, Mamre Road, Orchard Hills (Lot 2171 DP1153854). Modification 1 was subsequently approved on 15 August 2017; and, pursuant to this Modification 2 was approved on 20 December 2017.

The proposed development particulars (as modified) are outlined as follows:

- Subdivision of the site to create nine (9) industrial allotments;
- Creation of a lot along Mamre Road for the purpose of widening;
- Three warehouse buildings ranging in size between 19,744 m<sup>2</sup> and 41,500 m<sup>2</sup>, including office space and an ancillary sorting industry for agricultural produce in warehouse 8B1;
- 373 car parking spaces;
- Bulk earthworks, infrastructure and services;
- An internal access road from Mamre Road to the site's northern boundary;
- Intersection works between Mamre Road and an internal estate road; and,
- Realignment of the identified Estate Drainage Channel traversing Lot 2 DP 1233392.

Review of the approval granted under SSD 7173 indicates there is nothing which prevents the proposed modifications identified in this application.

### 2. PROPOSED MODIFICATIONS

#### **Estate Drainage Channel**

The proposed development is for the identified Estate Drainage Channel to be realigned from the previously approved location, to run north and northwest along the boundary of Lot 2 DP 1233392. The drainage easement for the proposed channel realignment is to be set at a width of 35 m wide as shown in **Figure 1**. The proposed channel realignment has been made to improve the utilisation of the neighbour's farming land zoned Rural Landscape (RU2), which was bisected by the previously approved drainage channel and forms part of a condition of sale between the land owner and the proponent.

The proposed channel realignment would be strategically positioned to align with the approved and constructed channel at chainage 56.50 m and proceed north before making a left turn northwest prior to joining with South Creek, found adjacent to the existing lot boundary (refer to **Appendix 1**). The drainage channel as constructed as part of the current approval is to be filled to the pre-existing levels with smooth transition into surrounding levels and decommissioned. When filled, the existing channel is to have a slight depression acting as an overland flow path. Subsequently, the Stormwater Management Strategy for the site would remain generally consistent with the previously approved configuration produced by Costin Roe Consulting in 2016.

Regrading of the land portion adjacent to the proposed stormwater channel is anticipated to improve the utilisation of the farming land, as-well-as improving the local stormwater runoff to South Creek. The Stormwater Management Strategy would be maintained as the stormwater runoff would remain being directed to the Estate Drainage Channel and discharged into South Creek as per approved SSD 7173.

#### **Lot 5 Expansion Works (Filling)**

The *SSD 7173 First Estate, Mamre Road, Orchard Hills – Civil Engineering Modification – Lot 5 Expansion & Drainage Channel* Report (Costin Roe Consulting, 2018) provides further insight regarding the proposed expansion works to Lot 5 within First Estate.

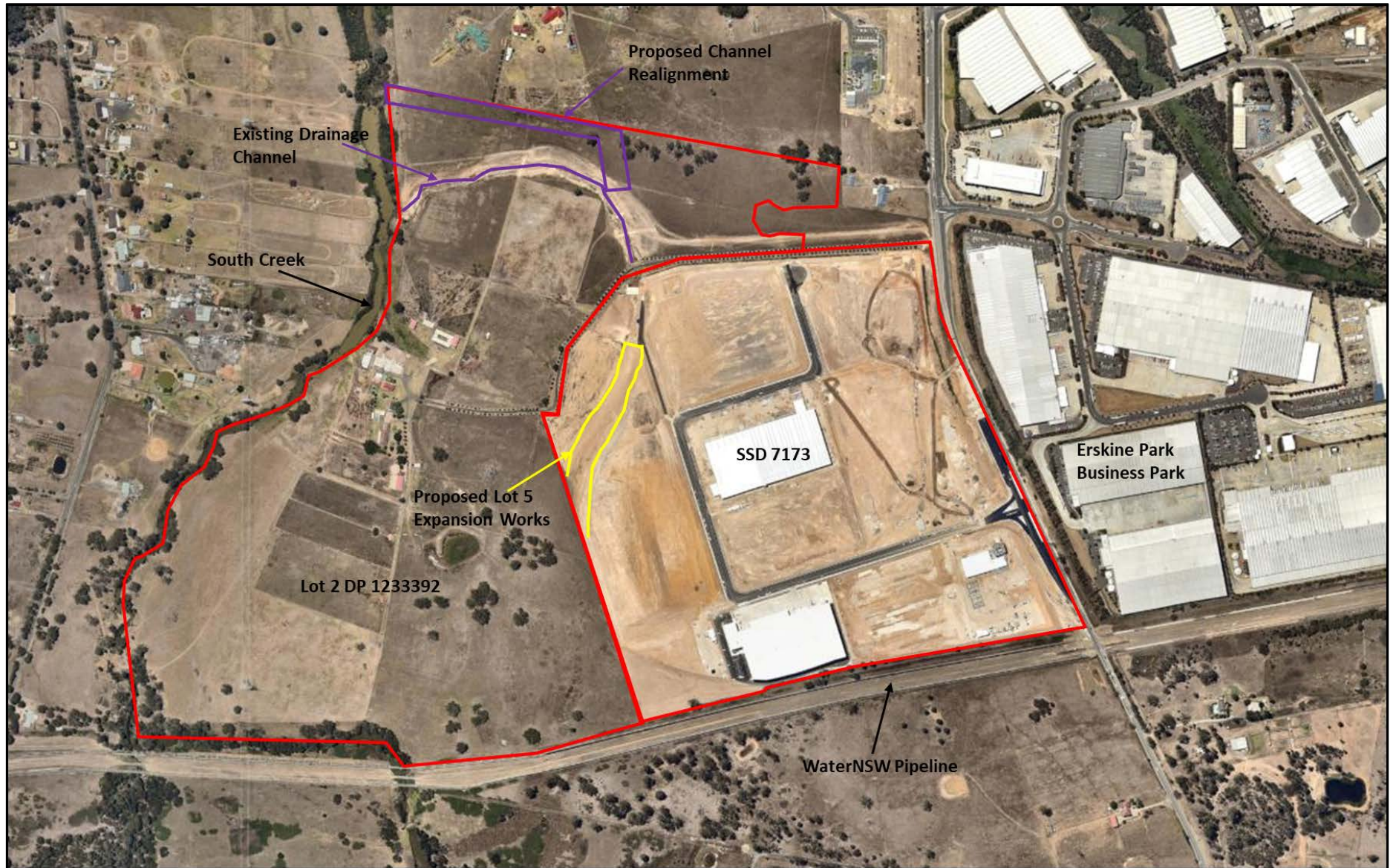


Figure 1 Proposed Channel Realignment Subject to SSD 7173 Modification 3 (NearMaps, 2018)



### **3. LEGISLATIVE FRAMEWORK**

#### **3.1 Environmental Planning & Assessment Act 1979**

Section 4.55 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) makes provisions to modify a Development Consent that has been granted pursuant to Part 4 of the Act. The proposed development (channel realignment and Lot 5 expansion works) as submitted to NSW DP&E is considered to satisfy the provisions of Section 4.55(1A) of the Act in that changes proposed would result in minimal environmental impact.

The relevant provisions are addressed below:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- a) it is satisfied that the proposed modification is of minimal environmental impact, and*

Comment: The proposed channel realignment and Lot 5 expansion works are considered to result in minimal environmental impact as the underlying land use would remain unchanged. Stormwater, traffic, noise, air quality and construction impacts would be managed accordingly, consistent with the findings and recommendations of SSD 7173.

- b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally was modified (if at all), and*

Comment:

- The underlying use of the land, being for warehousing and distribution purposes would remain as originally approved;
  - There would be no material change to the approved building footprints or provision of car parking previously approved; and,
  - The stormwater management outcomes would remain unchanged.
- c) it has notified the application in accordance with:*
- i. the regulations, if the regulations so require, or*
  - ii. a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: For the purpose of this application and the provisions set out in the *Environmental Planning & Assessment Regulation 2000* (EP&A Regulation), notification of the application is not required.

#### **3.2 State Environmental Planning Policy (Western Sydney Employment Area) 2009**

It is noted that the subject land falls within the land application area of *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (SEPP WSEA). The proposed channel realignment is categorised as unzoned land based on the land application map, and as such, and the Rural Landscape (RU2) zone pursuant to *Penrith Local Environmental Plan 2010* (PLEP2010) applies. Note, the General Industrial (IN1) zone pursuant to SEPP WSEA would be applied to the Lot 5 expansion works.

**Figure 2** below shows the extent to which the WSEA zone applies (applicable to SSD 7173); and, where the proposed channel realignment is categorised, with regard to the Rural Landscape (RU2) zone applicable to Lot 2 DP 1233392. **Figure 3** depicts the extent to which the General Industrial (IN1) zone applies.

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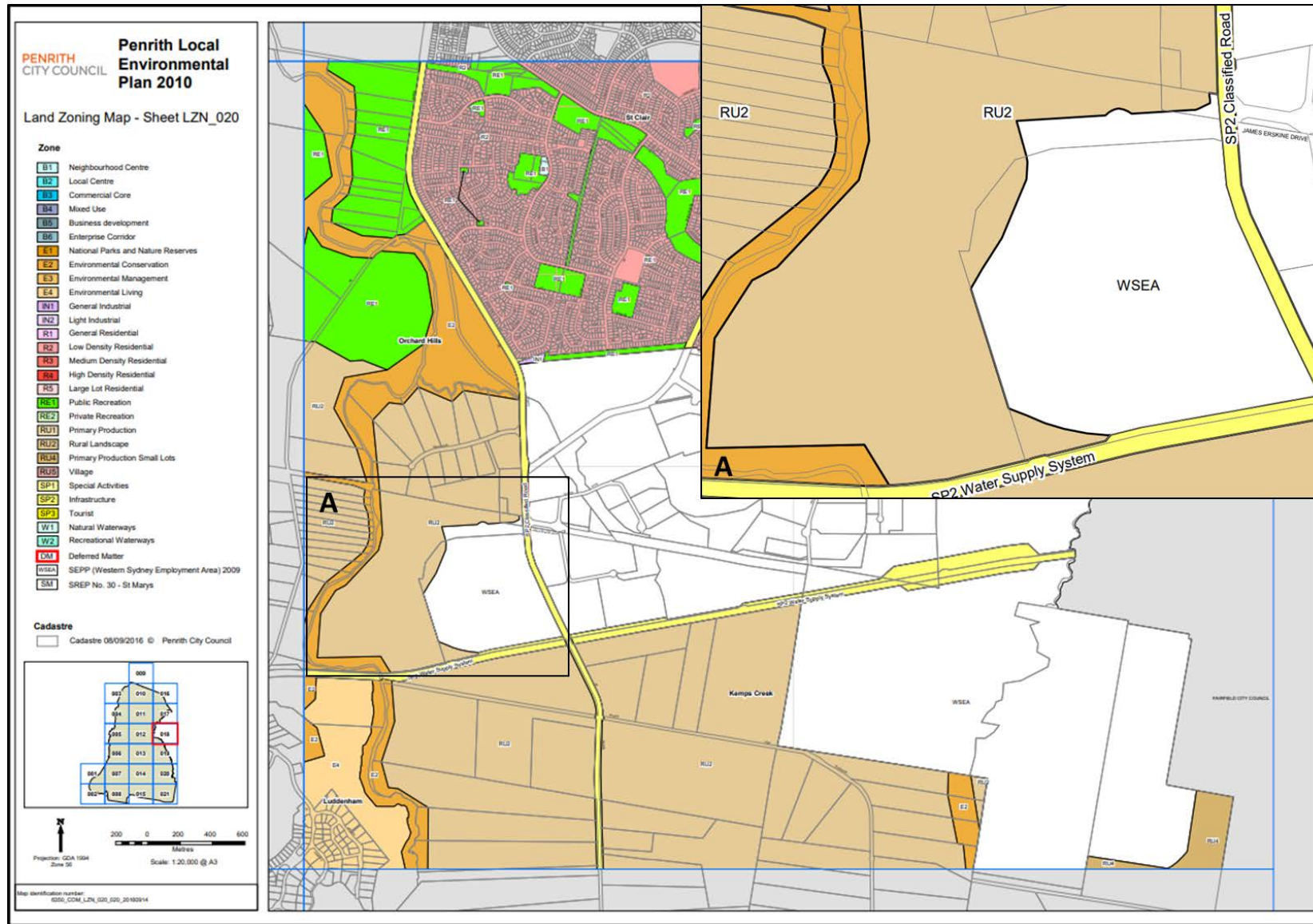


Figure 2 Land Zoning Map Applicable to the *Penrith Local Environmental Plan 2010* (NSW Legislation, 2018)

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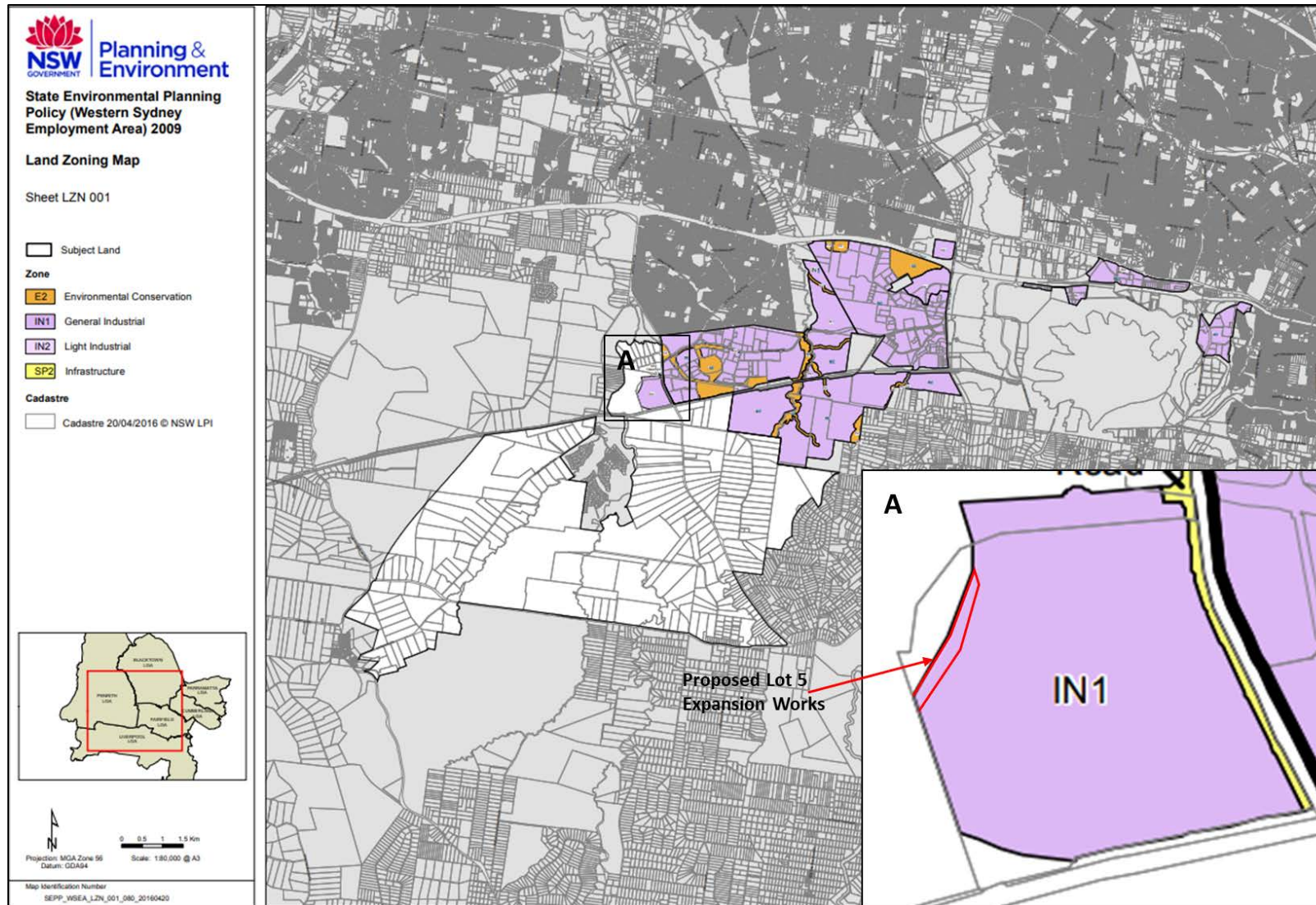


Figure 3 Land Zoning Map Applicable to *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (NSW Legislation, 2018)

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There are no provisions within SEPP WSEA which prevent the proposed realignment of the stormwater channel as proposed under this Modification Application. A supporting letter has also been prepared by Ecoplaning (dated 31 May 2018 – refer **Appendix 3**) which confirms that the proposed realignment does not impact upon native vegetation communities, and no further impact assessment is considered unnecessary as the subject site contains land of 'low' ecological value.

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

Contamination has been previously addressed under SSD 7173 as part of report's prepared by Coffey dated 17 November 2014; and, another prepared by Zoic dated September 2015, confirming there are no identified sources of contamination present and the likelihood of contamination is considered low, deeming the subject site suitable for future industrial land use.

### **3.4 Penrith Local Environmental Plan 2010**

As discussed in Section 3.2 above, the site, specifically, the proposed channel realignment, falls within the application area of SEPP WSEA; however, it is marked "unzoned land" and therefore the Rural Landscape (RU2) zone (applicable to the PLEP2010) continues to apply until such time a time where the land is potentially rezoned under SEPP WSEA.

For the purpose of the PLEP2010, the proposed channel realignment works are considered to be ancillary to the main warehouse and logistics hub and therefore permissible with consent.

### **3.5 Penrith Development Control Plan 2014**

The *Penrith Development Control Plan 2014* (PDCP2014) applies to the land which is zoned Rural Landscape (RU2). The overall stormwater strategy that was approved under SSD 7173 included the drainage channel on the subject land which is sought to be realigned under this Modification Application. Accordingly, the proposed development as modified with respect to the estate stormwater channel realignment and proposed Lot 5 expansion works is consistent with PDCP2014 and the overall intended stormwater strategy for SSD 7173.

### **3.6 Mamre West Precinct Development Control Plan**

The Mamre West Precinct Development Control Plan applies indirectly to the Modification Application as the proposed channel realignment falls adjacent to the Mamre West Precinct; however, the Mamre West DCP provisions would apply to the proposed Lot 5 Expansion Works.



#### **4. ENVIRONMENTAL ASSESSMENT**

Secretary's Environmental Assessment Requirements (SEARs) were issued on 11 September 2015 for SSD 7173 for the construction and operation of a Warehouse and Logistics Hub. The Environmental Assessment requirements related to the modified proposed development are addressed below.

##### **4.1 Traffic and Transport**

There is no change to traffic generation under the subject Modification Application. Parking provisions would be maintained as approved.

##### **4.2 Soil and Water**

The *Overland Flow Report Stage 2 (Revised) – Proposed Development: Mamre West Precinct, Orchard Hills, NSW* (Costin Roe Consulting, 2018) (refer to **Appendix 5**) and the *Geotechnical Investigation: Proposed Channel Re-Alignment, Mamre Road, Orchard Hills* (Construction Sciences, 2018) (refer to **Appendix 6**) considers the potential impacts of flooding and recommendations based on soil salinity and top soil characteristics with regard to the proposed development modification.

##### **Flooding**

The study area has been identified by Penrith City Council in their *Updated South Creek Flood Study (rp6033rg\_crt150128-Updated South Creek Flood Study (FINAL – Volume 1))* (South Creek Study), as being affected by overland flow associated with the adjacent South Creek tributary that meanders west of the identified land portion.

The Overland Flow Report states that the flood planning levels for any such future development would need to be based on the 1% AEP flood levels plus freeboard of 500 mm, and any change in flood levels as a result of any such proposed development, as defined in Section 3 of Penrith City Council's Water Management DCP.

A development scenario undertaken consisted of filling the zoned land within the First Estate lands inclusive of the stormwater management basin (on-site detention basin) and estate drainage channel, as-well-as increased development potential within the Mandalong Precinct (located further north of First Estate). The Report notes, that the stormwater management basin has been conservatively modelled under the previously developed and approved scenario and South Creek flood event as if the basin is full to the top water level of the basin. The scenario tested produced the following results for the 1% AEP storm event:

- *The change in flood surface levels between the existing and developed scenario were seen to be less than 100mm and generally less than 50mm;*
- *The change in flood surface levels and flow regime are confined locally adjacent tot the proposed areas of filling. The change to flood surface levels occur over the main South Creek channel and extend to the western side of South Creek; however, are generally less than 50mm; and,*
- *This scenario has been concluded to be acceptable in terms of the criteria for filling within flood affected land defined in the Penrith City Council Development Control Plan Part C3 and a total of 37.1 Ha of flood affected land is able to be filled and developed over the proposed site.*

##### **Soil Assessment**

Desktop analysis undertaken by Construction Sciences indicates that geological maps for the Penrith area describe the area as being underlain by Quaternary Deposits containing fine grained sand, Silt and Clay. The deposits are likely of fluvial origin. Concurrently to this, a field investigation was carried out on 1 June 2018, which utilised five (5) randomised boreholes to collect soil samples (refer to **Appendix 6**).

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During the field investigation, the groundwater table was not encountered during the drilling of boreholes; however, it should be noted, as advised by the Report, that the depth to the groundwater table and associated seepage could fluctuate with changes in the environmental factors.

Results from the composite topsoil sample recorded the electrical conductivity at 3.2 dS/m, indicating extremely high saline ( $EC_e > 16$  dS/m). Borehole #1 recorded a moderate to high saline level over a 3m depth, whereas Borehole #3-5 recorded 'Non' to slight saline soils for the full depth.

Based on the results, they suggest that only the most salt tolerant plants are likely to be able to grow in the associated soil.

The Report recommends that channel banks and bases be covered with treated topsoil after excavation has occurred. Topsoil on site should be modified by adding 0.9kg/m<sup>2</sup> of gypsum and heavily irrigated to leach out any residual sodium present. Further recommendations provided by SESL can be found in **Appendix 6**.

### **4.3 Biodiversity**

A supporting letter prepared by Ecoplanning (**Appendix 3**) confirms that the proposed channel realignment would not impact on native vegetation, and thus no further impact assessment is necessary due to the subject site containing a low ecological value.

### **4.4 Noise**

No change to the predicted noise levels would result from the proposed channel realignment and Lot 5 expansion works.

### **4.5 Air Quality and Odour**

Given the proposed Modification Application relates solely to the channel realignment and Lot 5 expansion works, there would be no additional impact in relation to air quality.

### **4.6 Bushfire**

As described in the *Bushfire Assessment – Proposed Channel Realignment, Lot 2 DP 1233392 Mamre Road, Orchard Hills* (Peterson Bushfire, 2018) that was submitted with SSD 7173, the proposed development consists of the realignment of a drainage channel that does not involve a land use or construction of structures that require assessment under the provisions of the *Planning for Bushfire Protection, 2006* (PBP).

Concerning the Lot 5 expansions works, there is no change in the land use or construction of structures that would require assessment under the provisions of the PBP. Should construction of a structure be proposed subsequent to the Modification Applications assessment, relevant assessment would be conducted as part of a Development Application.

### **4.7 Visual**

The extent of the proposed changes would generally not affect the visual outcomes of the site when viewed from the public domain and surrounding properties. The existing channel would ultimately be decommissioned and would be filled to its pre-existing levels with a smooth transition into its surrounding levels. With regard to the proposed Lot 5 expansion works, no visual impact would be encountered as it adjoins the on-site detention basin.

#### **4.8 Waste Management**

The findings and recommendations of the Waste Management Plan prepared by SLR as submitted with SSD 7173 remain generally unchanged for the proposed Modification Application.

#### **4.9 Fire Safety and Building Code of Australia**

As there is no change to the built-form, further consideration in respect of fire safety and the Building Code of Australia is not warranted.

### **5. CONCLUSION**

The subject Modification Application seeks to make minor changes to SSD 7173 which include:

- Realignment of the estate stormwater channel traversing the northwest corner of Lot 2 DP 1233392; and,
- Lot 5 expansion works located to the north of identified Lot 5 under SSD 7173.

For the reasons stated below, the proposed development, as modified, would be substantially the same as that for which consent was granted under SSD 7173 as follows:

- **Primary Land Use** – The use of the site is not proposed to change.
- **Subdivision** – There would be no additional allotments created.
- **Gross Floor Area** – There would be no change to the Gross Floor Area.
- **Car Parking** – Parking provision would be maintained as approved.
- **Setbacks** – All building setbacks would be maintained as approved.
- **Traffic Generation** – Traffic generation should not increase beyond that originally modelled for SSD 7173.

Overall, the Modification Application would provide for a more suitable layout that responds to the characteristics and requirements of the surrounding land use zones. The proposed channel realignment would be constructed in accordance with the aim to revitalise the conditions of the existing tributary and minimise environmental impacts associated by reinventing and redistributing volumes of water along the desired egress. The proposed development does not result in an intensification of the identified site (Lot 2 DP 1233392) or any variation to the approved use. With regard to the Lot 5 expansion works, the on-site detention basin that adjoins the identified lot would not be compromised in anyway, and the corrective recommendations and measures would be accounted for during the identified fill process. The employment-generating potential of SSD 7173 would not be compromised, and would be retained, consistent with the objectives of SEPP WSEA.

Accordingly, it is requested that the NSW Department of Planning & Environment support the application.

**Appendix 1**  
Civil Drawings



**Appendix 2**  
**Amended Subdivision Plan**

**Appendix 3**  
Ecological Review Letter

## **Appendix 4**

### Civil Engineering Report

## **Appendix 5**

### Overland Flow Report



## **Appendix 6**

### **Geotechnical Report**

## **Appendix 7**

### **Bushfire Assessment**