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NSW Department of Planning & Environment
320 Pitt Street
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Attention: Kelly McNicol

**Section 4.55(1A) Modification Application (SSD 7173 Proposed Warehouse and Logistics Hub)
11 Distribution Drive, Orchard Hills (Lot 8 DP 271141)**

Modification 6 to SSD 7173

Dear Kelly,

This Modification Application is submitted to the NSW Department of Planning & Environment (NSW DP&E) on behalf of Altis Property Partners in relation to 11 Distribution Drive, Orchard Hills (Lot 8 DP 271141) and part Lots 1 & 2 DP 1233392.

Approval to State Significant Development (SSD) Application 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 6, 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 unobtainable at the time the proponent requested that this element be removed from the application until later advised (SSD 7173 MOD 3). The proposed development as modified (SSD 7173 MOD 4) presently 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 m² and 41,500 m², including office;
- 357 car parking spaces;
- Bulk earthworks, infrastructure and services;
- An internal estate road from Mamre Road to the site's northern boundary; and
- Intersection works between Mamre Road and the estate road.

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This Application represents the **sixth** Modification Application to SSD 7173 which seeks to make amendments to Subdivision Plan Lot 8, entailing the creation of two (2) new proposed allotments – Lots 13 & 14; and, the removal of reference to Lot 8

It is noted, that Modification 3 (SSD 7173 MOD 3), which deals with the proposed channel realignment, was determined and approved on 19 December 2018; and, Modification 4 (SSD 7173 MOD 4), which deals with Lot 5, with regard to two (2) proposed warehouses, was also determined and approved on 19 December 2018. Running concurrently to the subject Modification Application includes Modification 5 (SSD 7173 MOD 5), which includes provisions to amend the Subdivision Plan (as approved under SSD 7173 MOD 2) with regard to proposed Lots 10, 11 & 12 (replacing Lots 7 & 9) (refer to **Appendix 2**).

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

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

- **Appendix 1 – Survey Plan**
- **Appendix 2 – Subdivision Plan (subject to SSD 7173 MOD 5)**
- **Appendix 3 – Amended Subdivision Plan**
- **Appendix 4 – Civil Engineering (Stormwater) Letter of Support**

Should you wish to discuss further, please contact the undersigned on 0413 555 638.

Yours Faithfully,



Andrew Cowan
Director
Willowtree Planning Pty Ltd
ACN 146 035 707

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1. DEVELOPMENT HISTORY

With regard to First Estate, three (3) separate Development Applications have recently been submitted to Penrith City Council for determination. Additionally, three (3) Modification Applications and one (1) other State Significant Development Application (SSDA) have also been lodged to the NSW DP&E for further assessment and determination (refer to **Table 2** below).

Table 2: State Significant Development Applications, Development Applications and Modification Applications at 585-649 Mamre Road, Orchard Hills (First Estate)			
DA Reference	Development Description	Lodged	Determination
DA18/0628	Proposed Warehouse and Distribution Facilities on Lot 8 for two (2) proposed warehouses for Voestalpine and a Speculative Warehouse.	26 June 2018	Approved.
DA18/0674	Proposed paper subdivision concerning 579a Mamre Road, Orchard Hills regarding the proposed subdivision of one (1) allotment in two (2) separate allotments.	11 July 2018	Yet to be determined.
DA18/0689	Proposed Warehouse and Distribution Facility on Lot 8 for Orora Group.	16 July 2018	Approved.
SSD 7173 MOD 3	Proposed channel realignment and proposed Lot 8 expansion works.	29 June 2018	Approved.
SSD 7173 MOD 4	Two (2) proposed warehouse and distribution facilities on Lot 5.	31 August 2018	Approved.
SSD 9429	Proposed Warehouse and Distribution Facility (High Bay Warehouse) on Lot 7 for Snack Brands Australia.	07 September 2018	Yet to be determined.
SSD 7173 MOD 5	Proposed amendment to the Subdivision Plan previously approved under SSD 7173 MOD 2.	31 October 2018	Yet to be determined.
DA19/0110	Proposed Private Road Extension and Access Road Extension.	15 February 2019	Yet to be determined.

Review of the approval granted under SSD 7173 (and subsequent Applications and Modifications) indicates there is nothing which prevents the proposed modification, for purposes of a proposed amendment to the Subdivision Plan (subject to the approval of SSD 7173 MOD 5), from taking place under this Modification Application.

2. PROPOSED DEVELOPMENT

2.1 Objectives of the Proposed Development

The aim of the proposed development is to amend the Subdivision Plan via a Modification Application, which seeks to achieve the following objectives, including:

- Appropriate access to the Site (First Estate);
- Compatibility with surrounding developments (First Estate and the wider WSEA) and the local context;
- Promotes an employment-generating development (subject to future development);
- Results in minimal impact on the environment; and,
- Allow for the implementation of suitable mitigation measures where required.

2.2 Proposed Modifications

Lot 8 – Proposed Amendment to Subdivision Plan

The proposed Modification Application is made in relation to the proposed amendment to the Subdivision Plan with regard to 11 Distribution Drive, Orchard Hills (Lot 8 DP 271141).

The proposed development for purposes of an amendment to the Subdivision Plan (subject to the approval of SSD 7173 MOD 5), would facilitate the proposed changes in lot layout. The proposed modification would include provisions for the creation of proposed Lots 13 & 14. It is important to note, that there are no construction works proposed under this Modification Application. Notwithstanding, DA18/0628 and DA18/0689 approved by Penrith City Council, previously sought development consent for the construction and built-form on the Subject Site with regard to proposed Lots 13 (DA18/0628) & 14 (DA18/0689). **Figure 1** below illustrates the existing site layout, whilst **Figure 2** illustrates the proposed site layout, subject to this Modification Application.

Furthermore, Costin Roe Consulting (2018) have provided a letter of support with regard to the existing stormwater management controls applicable to First Estate, which further supports the proposed amendments to the Subdivision Plan, as detailed in **Section 4.2** of this Report (refer to **Appendix 4**).

The Subdivision Plan currently under assessment with regard to SSD 7173 MOD 5 is provided in **Appendix 2** of this Modification Application and the amended Subdivision Plan proposed under this Modification Application is provided in **Appendix 3**.

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Figure 1 Proposed Site Layout Subject to Approval under SSD 7173 MOD 5 (Source: NearMaps, 2018)

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Figure 2 Proposed Site Layout Subject to this Modification Application for Purposes of a Proposed Subdivision (Source: Nearmaps, 2018)

3. LEGISLATIVE FRAMEWORK

3.1 Environmental Planning & Assessment Act 1979

Section 4.55(1A) 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 EP&A Act. The proposed development (proposed amendment to the Subdivision Plan on Lot 8) as submitted to the NSW DP&E is considered to satisfy the provisions of Section 4.55(1A) of the EP&A Act, as 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: There are no proposed construction works as a result of the subject Modification Application. The only construction works include provisions for a proposed sewer connection under a subsequent S73 Application. Therefore, the proposed development is 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, consistent with the findings and recommendations of SSD 7173. Notwithstanding, proposed Lots 13 & 14 have been recently approved via Notice of Determination (DA18/0628 & DA18/0689) regarding proposed Warehouse & Distribution Facilities. Both Development Applications confirm, that there would be minimal environmental impacts anticipated with regard to the proposed development.

- 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 increase to the approved building footprints or substantial change to the provision of car parking previously approved; and,
 - The stormwater management outcomes would remain generally 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 Modification Application and the provisions set out in the *Environmental Planning & Assessment Regulation 2000* (EP&A Regulation), notification of the Application is not required to neighbouring properties.

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

It is noted that the Subject Site falls within the Land Application Area of SEPP WSEA (refer to **Figure 3**). The identified land portion is zoned IN1 General Industrial. Whilst the proposed development for purposes of an amendment to the Subdivision Plan (Lot 8) is permitted with consent, any such future development, would be

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considered to adhere to the support of the ongoing promotion of the objectives of the IN1 General Industrial zone.

The objectives of the IN1 General Industrial zone under SEPP WSEA include:

- *To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space;*
- *To encourage employment opportunities along motorway corridors, including the M7 and M4;*
- *To minimise any adverse effect of industry on other land uses;*
- *To facilitate road network links to the M7 and M4 Motorways;*
- *To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment; and,*
- *To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.*

Within the IN1 General Industrial zone the following are permissible without consent:

- *Nil.*

Within the IN1 General Industrial zone the following are permissible with consent:

- *Depots; Food and drink premises; Freight transport facilities; Industrial retail outlets; Industrial training facilities; Industries (other than offensive or hazardous industries); Neighbourhood shops; Roads; Service stations; Transport depots; Truck depots; **Warehouse or distribution centres.***

Within the IN1 General Industrial zone the following are prohibited:

- *Any development not specified in item 2 or 3.*

In accordance with the above, the proposed development, for the purposes of an amendment to the Subdivision Plan, would be considered permissible subject to development consent.

Figure 4 below illustrates the extent to which the IN1 General Industrial zone subject to SEPP WSEA applies (applicable to First Estate); and, where the proposed development (Lot 8 DP 271141) is situated, with regard to the contextual zoning of SEPP WSEA.

Subdivision

The proposed development seeks development consent to amend the Subdivision Plan (subject to approval under SSD 7173 MOD 5) under Clause 14 of SEPP WSEA. The proposed development includes provisions to create two (2) proposed allotments, including Lots 13 & 14; and, the removal of reference to existing Lot 8.

Requirements for Development Control Plans

The Mamre West Precinct Development Control Plan (DCP) has been prepared in accordance with Part 4 of SEPP WSEA and would be applied accordingly to the proposed development's built form characteristics (refer to **Section 3.7**) for any such future development on the proposed allotments. It is important to note, that DA18/0628 (proposed Lot 13) & DA18/0689 (proposed Lot 14) (approved by Penrith City Council), utilised the setbacks and controls under the Mamre West Precinct DCP, where applicable.

Below in **Table 4** is a summary of the provisions outlined in SEPP WSEA as they apply to the proposed development.

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Table 4: SEPP WSEA Provisions	
Clause	Comment
Clause 21: Height of Buildings	<p>No maximum building height has been adopted under SEPP WSEA.</p> <p>However, the consent authority <u>must</u> be satisfied that:</p> <ul style="list-style-type: none"> a) <i>Building heights will not adversely impact on the amenity of adjacent residential areas,</i> b) <i>Site topography has been taken into consideration.</i> <p>The proposed development does not include provisions for any construction works.</p>
Clause 22: Rainwater Harvesting	<p><i>"the consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Director-General."</i></p> <p>The proposed development does not change any outcomes in this respect.</p>
Clause 23: Development Adjoining Residential Land	<p>The proposed development has been considered against the provisions of Clause 23 of SEPP WSEA as detailed below:</p> <ul style="list-style-type: none"> a) <i>wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity</i> b) <i>goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from view from residential buildings and associated land</i> c) <i>the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like</i> d) <i>the development will provide adequate off-street parking, relative to the demand for parking likely to be generated</i> e) <i>the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.</i> <p><u>Comment:</u> The proposed development does not constitute any such building works, and therefore it is considered compliant with Clause 23 under SEPP WSEA.</p>
Clause 24: Development Involving Subdivision	<p>The proposed development seeks development consent to amend the Subdivision Plan subject to approval under SSD 7173 MOD 5 under Clause 14 of SEPP WSEA. The proposed development would adjust the boundaries of one (1) allotment via the creation of two (2) proposed allotments, including Lots 13 & 14; and the removal of reference to existing Lot 8 (refer to Appendix 3). Running concurrently to this Modification Application, includes SSD 7173 MOD 5, which makes provisions to amend the Subdivision Plan with regard to Lots 7 & 9 (refer to Appendix 2).</p>
Clause 25: Public Utility Infrastructure	<p>Existing services would be augmented for any such future development. Any works in this respect would be at no cost to the Government.</p>
Clause 26: Development on or in Vicinity of Proposed Transport Infrastructure Routes	<p>The proposed development is noted to be generally clear of the proposed Southern Link Road under Clause 26; therefore, the proposed development would not require referral to the Secretary-General of the Department of Planning under Clause 26 of SEPP WSEA.</p>

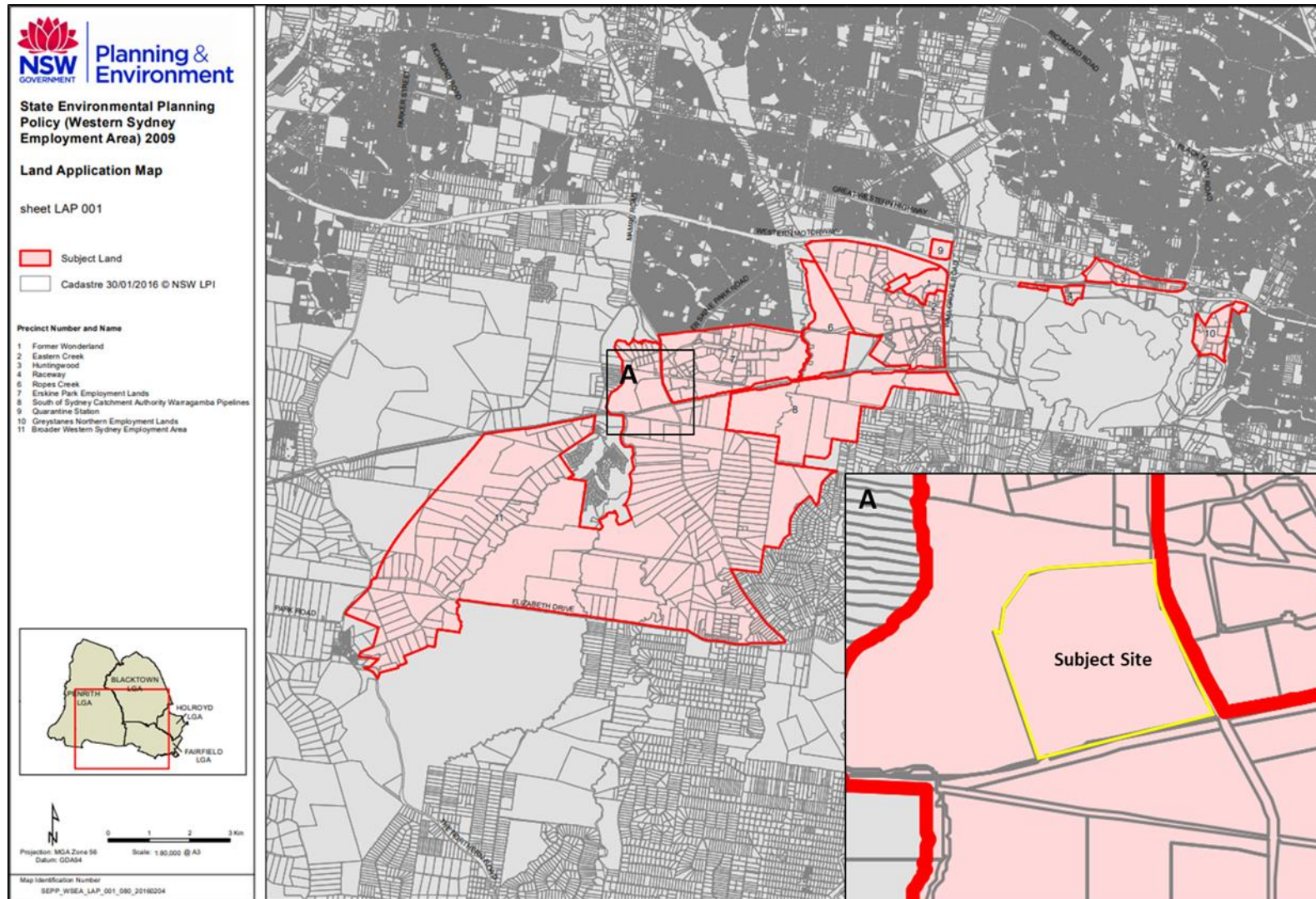
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Clause 29: Industrial Release Area Satisfactory Arrangement for the Provision of Regional Transport Infrastructure Facilities	<p>Under SSD 7173, a Voluntary Planning Agreement (VPA) has been executed between the Minister for Planning, The Trust Company (Australia) Limited and Altis Bulky Retail Pty Limited, to provide monetary contributions for each stage of the development to contribute towards the provision of infrastructure to service the development.</p> <p>It is considered that satisfactory arrangements have been made under this VPA in accordance with the SEPP as per Clause 29 of SEPP WSEA. No further amendment is required in this respect.</p>
Clause 31: Design Principles	<p>The design principles of the SEPP are investigated and summarised further in subsequent sections of this Modification Application. The proposed development seeks to address the below provisions as follows:</p> <ul style="list-style-type: none"><i>a) the development is of a high quality design, and</i><i>b) A variety of materials and external finishes for the external facades are incorporated, and</i><i>c) High quality landscaping is provided, and</i><i>d) The scale and character of the development is compatible with other employment-generating development in the precinct concerned.</i> <p><u>Comment:</u> The proposed development does not constitute any such building works, and therefore it is considered compliant with Clause 31 under SEPP WSEA.</p>
Clause 31: Preservation of Trees	Approval for vegetation removal was previously granted under SSD 7173.
Clause 33A: Development Near Zone Boundaries	The proposed development does not rely on Clause 33 to carry out the proposed development.

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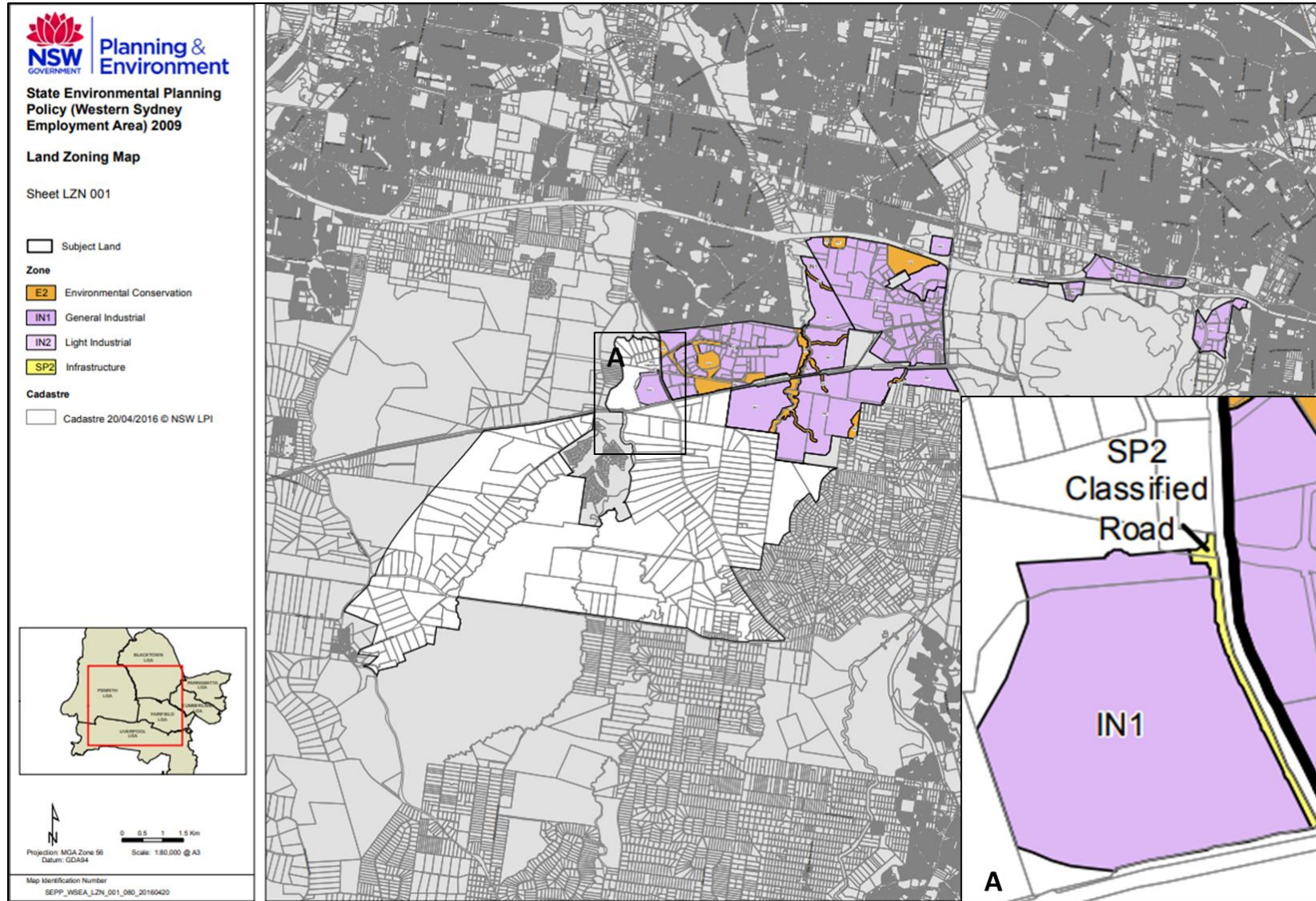


Figure 4 Land Zoning Map Applicable to the *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (NSW Legislation)

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There are no provisions within SEPP WSEA which prevent the proposed amendment to the Subdivision Plan (Lot 8) under this Modification Application.

3.4 State Environmental Planning Policy No.55 – Remediation of Contaminated Land

Contamination has been previously addressed under SSD 7173.

3.5 Penrith Local Environmental Plan 2010

As discussed in Section 3.2 above, the site falls within the application area of SEPP WSEA – zoned IN1 General Industrial – which, would take precedence as the overarching legislative control concerning the proposed development.

3.6 Penrith Development Control Plan 2014

The *Penrith Development Control Plan 2014* (PDCP2014) provides a non-statutory instrument to guide development in the Penrith LGA, including land that is covered by SEPP WSEA. The Mamre West Precinct DCP has been prepared that establishes built form controls for the Mamre West Precinct to supersede the provisions of the general PDCP2014. Therefore, the PDCP2014 does not apply to the Subject Site, particularly this Modification Application.

3.7 Mamre West Precinct Development Control Plan

The Mamre West Precinct DCP has been adopted as part of the Precinct Planning for the Mamre West Precinct. **Table 5** below provides an outline of the key numeric controls of the DCP as applicable to built form and provides an assessment of the proposed development in relation to these controls.

Table 5: Mamre West Precinct Development Control Plan		
Control	Requirement	Comment
Minimum Lot Size	10,000 m ²	The proposed development entails a subdivision concerning the creation of two (2) allotments. Proposed Lots 13 (2.23 ha) and 14 (13.86 ha), exceed the minimum lot size.
Minimum Frontage	60 m	The frontage of the proposed lots exceeds 60 m.
Building Setback	Mamre Road – 20 m (including a 10 m landscaped setback)	N/A
	Subdivision Road – 7.5 m	N/A
	Rear and Side – 5 m	N/A
	Water Supply Pipeline – 5 m	The lots on which built form is proposed is not identified as adjoining the water supply pipeline.
Building Height	20 m	N/A
Car Parking	1 space / 300 m ² warehouse GFA	N/A
	1 space / 40 m ² ancillary office GFA	

4. ENVIRONMENTAL ASSESSMENT

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 will be maintained as approved. Additionally, DA18/0628 and DA18/0689 (approved by Penrith City Council) considered the potential traffic impacts via a Traffic Impact Assessment undertaken by Ason Group (2018) for each Application.

4.2 Soil and Water

All stormwater management outcomes will be generally consistent with that approved under SSD 7173. Accordingly, the stormwater strategy which was established under SSD 7173 would be maintained. Site specific stormwater management systems have been dealt with under DA18/0628 (proposed Lot 13) and DA18/0689 (proposed Lot 14), that have been previously approved by Penrith City Council, incorporate Water Sensitive Urban Design (WSUD) strategies into their proposed schemes.

Additionally, the letter of support (refer to Appendix 4) states, that the recent Notice of Determination for DA18/0628 included Sparks and Partners engineering drawings (DA4.01), which proposes a new stormwater point of discharge to the existing estate stormwater systems for proposed Lot 13. Costin Roe Consulting confirm, that the proposed modification to the approved drainage catchments and alternate connection point has been reviewed accordingly and is able to be facilitated.

The drainage for proposed Lot 14 is able to be facilitated through the following discharge locations:

- Proposed Lot 14 (north) discharges through the existing Cat 6 discharge location; and,
- Proposed Lot 14 (west) discharges through the existing Cat 5 discharge location.

It is noted, that Enclosure 2 of Appendix 4 illustrates the future connections and how the proposed allotments are expected to be serviced. Further, there is to be no such amendments to the existing levels and associated contours under this Modification Application; and, the Site is able to drain as it currently does prior to future developments being undertaken on the Subject Site.

Proposed Lot 14 (west) drainage works will be subject to future Development Applications, through the existing point of discharge in the re-entrant (northwest) corner of Distribution Drive.

The letter concludes, that given the above catchment layouts, and associated easements are provided, the proposed subdivision will have negligible effect on the drainage and the system will operate generally as per the approved and constructed SSD 7173 designs.

4.3 Noise

The proposed Modification Application does not constitute any proposed works; therefore, there is no change anticipated to the predicted noise levels previously identified under SSD 7173. Notwithstanding, DA18/0628 and DA18/0689 (approved by Penrith City Council) have taken into consideration the potential noise impacts of their indicative proposals.

4.4 Air Quality and Odour

Given the proposed modifications relate to amendments to the Subdivision Plan, there would be no additional impact in relation to air quality.

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4.5 Bushfire

As there is no change proposed to built form, further consideration with respect to bushfire protection is not required.

4.6 Visual

The extent of the proposed modifications, for the purposes of a proposed subdivision, would generally not affect the visual outcomes of the Site when viewed from the public domain and surrounding properties. DA18/0628 and DA18/0689 (approved by Penrith City Council) considered potential visual impacts with regard to built-form under their applicable Applications.

4.7 Waste Management

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

4.8 Building Code of Australia and Fire Engineering

As there is no change to 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:

- Subdivision of the Site to create 11 industrial allotments; and,
- Removal of reference to Lot 8; and,
- Creation of proposed Lots 13 & 14.

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 two (2) allotments created; and, referencing would change for one (1) lot, with the removal of Lot 8.
- **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 would not increase beyond that originally modelled for SSD 7173.

Overall, the Modification Application (SSD 7173 MOD 6) would provide a suitable layout that responds to the characteristics and requirements of the Site.

Accordingly, it is requested that the NSW DP&E support this Modification Application.

Appendix 1

Survey Plan

Appendix 2

Subdivision Plan (subject to SSD 7173 MOD 5)

Appendix 3

Amended Subdivision Plan

Appendix 4

Civil Engineering (Stormwater) Letter of Support