

WILLOWTREE PLANNING



19 October 2021

REF: WTJ21 -285

William Hodgkinson
NSW Department of Planning, Industry & Environment (DPIE)
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2124

Attention: William Hodgkinson

RE: SECTION 4.55(1A) MODIFICATION APPLICATION - SSD 9522 (MOD 2)

PROPERTY AT 657-769 MAMRE ROAD, KEMPS CREEK (LOT 34 DP 1118173, LOTS X & Y DP 421633, LOT 1 DP 1018318 & LOT 22 DP 258414)

1. INTRODUCTION

Dear Will,

Reference is made to Development Consent SSD 9522, that was granted on 21 December 2020 for the construction and operation of a Warehouse, Logistics and Industrial Facilities Hub, at the Subject Site – 657-769 Mamre Road, Kemps Creek (Lot 34 DP 1118173, Lots X & Y DP 421633, Lot 1 DP 1018318 and Lot 22 DP 258414) (the Site).

This Application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), on behalf of Altis Frasers JV Pty Ltd which seeks to modify Development Consent SSD 9522 (refer to **Appendix 1** and **Appendix 2**), which granted Development Consent for:

- *Demolition of existing structures, site-wide earthworks, landscaping, stormwater and other infrastructure and an internal road network;*
- *Construction and operation of eight warehouses comprising 162,355 m² of floor space;*
- *Intersection upgrade works in Mamre Road;*
- *744 parking spaces; and*
- *21-lot Torrens title subdivision over two stages, being Stage 1 residual lot subdivision (5 lots) and Stage 2 residual and development lot subdivision (17 lots).*

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The proposed modifications under this Application are minor in nature pertaining to:

- Amendment to Condition B6 with respect to the internal Estate road widths;
 - Bakers Lane and north-south Road to be amended to 26.4 m
 - Southern east-west Road to be amended to 24 m
 - Cul-de-sac south of Lot 5 to be amended to 25.2 m
- Amendment to the lot sizes due to a shift in boundaries (7,961m² increase due to road width reductions);
- Increase in building areas pertaining to Lots 6 and 8 (945m² and 390m² additional GFA to warehouses on Lots 6 and 8);
- Amendment to condition A6 to reflect the proposed GFA increase from 186,123m² to 187,378m²;
- Deletion of condition B4 regarding the requirement to submit design plans to the Secretary; and
- Deletion of condition B11 given modified sequence 1A approved under Mod 1 to SSD 9522.

The following supporting documentation has been provided as part of this Application:

- **Appendix 1** SSD 9522 Development Consent
- **Appendix 2** SSD 9522 MOD 1 Development Consent
- **Appendix 3** Stage 1 Subdivision Plan
- **Appendix 4** Stage 2 Subdivision Plan
- **Appendix 5** Masterplan
- **Appendix 6** Landscape Masterplan
- **Appendix 7** Civil Engineering Report and Drawings
- **Appendix 8** Traffic Impact Assessment – Technical Note





2. SITE LOCATION AND CHARACTERISTICS

2.1 The Site

The Site which is the subject of this Modification Application is legally defined as 657-769 Mamre Road, Kemps Creek. The Subject Site comprises five (5) allotments, as described in **Table 1** outlined below.

TABLE 1: SITE IDENTIFICATION	
Street Address	Legal Description
657-703 Mamre Road, Kemps Creek	Lot 34 DP 1118173
707A Mamre Road, Kemps Creek	Lot 1 DP1018318
713-755 Mamre Road, Kemps Creek	Lot X DP 421633
	Lot Y DP 421633
757-769 Mamre Road, Kemps Creek	Lot 22 DP 258414

The Subject Site comprises a total area of approximately 118 ha and is subject to the applicable provisions outlined within *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (SEPP WSEA) and *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020* (SEPP WSA).

Access to the Site is proposed to be obtained from a signalised intersection at Bakers Lane / Mamre Road providing connectivity to the wider Site, which includes roads that will be dedicated to Penrith City Council in the future.

The Site's historical context is best described through its current undeveloped nature; however, was recently approved for the purposes of a Warehouse, Logistics and Industrial Facilities Hub. Land surrounding the Site comprises the following land use zoning, including:

- IN1 General Industrial;
- SP2 Infrastructure;
- E2 Environmental Conservation;
- RE1 Public Recreation;
- RE2 Private Recreation; and
- ENZ Environment and Recreation Zone (SEPP (WSA) 2020).

The nearest sensitive land uses comprise a combination of the E2 Environmental Conservation; RE1 Public Recreation; and RE2 Private Recreation zones.

The identified land portion is subject to the provisions outlined in SEPP WSEA which is the primary EPI and categorises the Site within the IN1 General Industrial zone as displayed in **Figure 1** below.

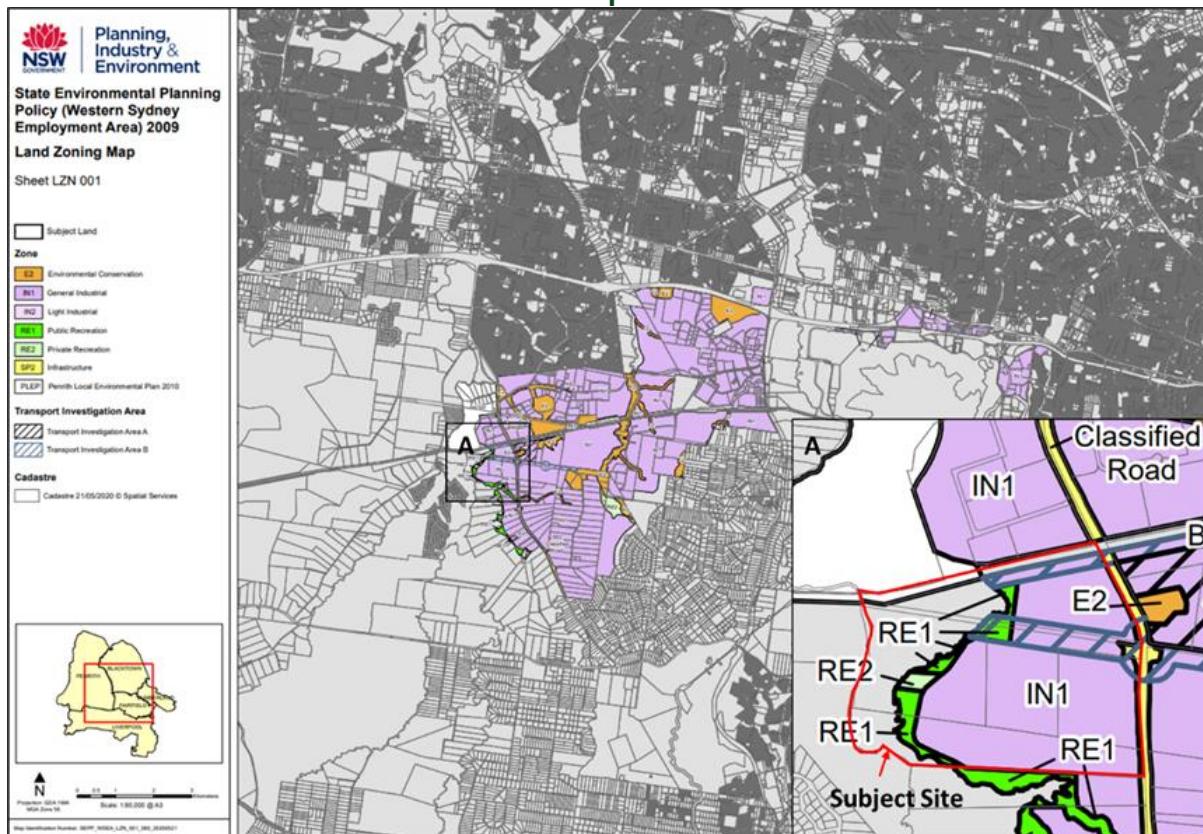


Figure 1: Land Zoning Applicable to the Subject Site under State Environmental Planning Policy (Western Sydney Employment Area) 2009 (Source: NSW Legislation, 2021)

2.2 Development and Planning History

As mentioned above, approval to SSD 9522 was granted by the Minister for Planning and Public Spaces on 21 December 2020 for a Warehouse, Logistics and Industrial Facilities Hub, which comprised of the following development particulars:

- demolition of existing structures, site-wide earthworks, landscaping, stormwater and other infrastructure and an internal road network;
- construction and operation of eight warehouses comprising 162,355 m² of floor space;
- intersection upgrade works in Mamre Road;
- 744 parking spaces; and
- 17-lot Torrens title subdivision (over two Stages, - Stage 1 residual lot subdivision and Stage 2 residual and development lot subdivision).

A Section 4.55(2) Modification Application was approved on 3 September 2021 which included the following changes:

- Stage 1 Subdivision Plan:
 - Amendment to Lot 1, comprising an increase in Site Area from 680,972 m² to 684,083 m²;
 - Increase in the size of the easements from 5,548 m² to 5,550 m²; and



- Construction of a slip lane to facilitate access into Lot 5.
- Stage 2 Subdivision Plan:
 - Amendment to Lot 5, comprising an increase in Site area from 40,726m² to 148,321m²;
 - Amendment to Lot 6, comprising a decrease in Site area from 37,947m² to 33,403m²;
 - Removal of Lot 7;
 - Amendment to Lot 8, comprising a decrease in Site area from 44,315m² to 25,756m²;
 - Amendment to Lot 10 (part lot), which to become part of Lots 5 & 6.
 - Amendment to Lot 10 (part lot), comprising an increase in Site area from 144,988m² to 158,550m²;
 - Amendment to the site area of the Public Access Roads comprising an increase from 58,490 m² to 55,381 m²; and
 - Amendment to the Site area of the Southern Link Road intersecting the Site from 29,375m² to 28,917m²;
- Masterplan:
 - Increase in overall GFA across the Site from 162,355m² to 186,123m² – this includes an amendment to Condition A6 of SSD 9522;
 - Increase in overall car parking from 744 spaces to 772 spaces;
 - Decrease in the site area of the public access roads from 58,490 m² to 55,381m²;
 - Shift of the north-south Road east; and
 - Amendment of landscaped setbacks to 3.75 m in accordance with the Development Consent and consistent with Mamre Road Precinct DCP.

Accordingly, the subject Application represents the second Modification Application to SSD 9522.





3. CONSULTATION

In response to the changes proposed under this Modification Application, consultation has been carried out as follows:

a) NSW DPIE Central Western Team and Chief Engineer - NSW DPIE

On 28 July 2021, information was provided to NSW DPIE in relation to the proposed road width amendments which was considered by the Chief Engineer. A written response was provided on 17 August 2021, which has been addressed as follows:

TABLE 2: CHIEF ENGINEER - NSW DPIE CONSULTATION			
Issue (Summarised)	Proponent Response (Summarised)	Chief Engineer Response	CRC Response 01/09/2021
Smooth Continuous movement & alignment	No alignments changes proposed	Response reviewed and acceptable	Closed Out.
Design Speed	Consistent within speed environment	Response reviewed and acceptable	Closed Out.
Design Vehicle	30m long B-Double	Reference should be updated to Performance Based Standards vehicles	Reference updated to PBS B-Double Level 2.
Swept Paths	Provided in drawings	Swept paths depicted in drawings acceptable. No dimensioned drawings provided.	Dimensions for vehicle and road/intersection layout provided on latest plans DA07 to DA10 - refer Appendix 7 .
Design vehicles, superelevation, driveway sight lines, lane widening	Provided in drawings	No dimensioned drawings showing sight lines to drive ways provided	Refer to additional drawing DA10 at Appendix 7 . Sight lines have been provided to Lot 5 driveway. No other driveways are applicable to this application.
Intersection spacing	No additional intersections proposed from SSD9522	Response acceptable	Closed Out.
Horizontal & vertical alignment	Vertical no change, slight modification to horizontal alignment	No dimensioned drawings provided	Road Long Sections and Typical Cross Sections have been provided for all roads. Non-standard dimensions at intersections shown on drawings DA07 to DA09 – refer Appendix 7 .



**TABLE 2: CHIEF ENGINEER – NSW DPIE CONSULTATION**

Issue (Summarised)	Proponent Response (Summarised)	Chief Engineer Response	CRC Response 01/09/2021
Maximum longitudinal Grade	Details provided	Response reviewed, checked and acceptable	Closed Out.
Dimensioned diagrams for all elements	Details provided	Not all dimensions provided (swept paths)	Refer to latest plans DA07 to DA10.
Maximum longitudinal grade of 10%	Grades generally below 10%	No grades greater than 10% identified in sections provided. Acceptable	Closed Out.
Confirmation that line marking considers design vehicle	Line marking provided	Information provided has been reviewed.	Closed Out.
Median of 0.8m in the distributor road included however not proposed for construction		Details of median treatment should be provided, e.g line marking only, or other treatment	Linemarking only to be provided outside of intersection zone. Within intersection zone a raised median is to be provided.
Soil and Water	Comment provided in Costin Roe Letter	Response acceptable	Closed Out.

All matters identified are addressed for the purpose of supporting the changes proposed.

b) Transport for NSW

A meeting was held with Transport for NSW (TfNSW) on 14 October 2021 in relation to the proposal. Attendees included Altis/Frasers (AF), Willowtree Planning (WTP) and Ason Group (AG). The matters discussed at the meeting were as follows:

- WTP Introduced the proposal.
- Transport indicated that modelling provided is with modelling team for review and did not have any comments at present - these would be provided in due course.
- Transport indicated that LoS C would generally be the lowest accepted - adequate justification required otherwise.
- AG indicated that for the 2031 and 2036 scenario that LoS C or D would be achieved similar to the approved 2025 assessment undertaken as part of MOD 1 approval at the intersection of Mamre Road / Bakers Lane (Modified 1A).
- AG indicated that there would be no change to the approved Modified 1A (Mamre Road / Bakers Lane) intersection layout and turning lanes under the above scenarios.
- AG indicated that SIDRA outputs would be sent to Transport on 14 October.
- AF confirmed that swept paths had been provided in the package sent previously and these would be included in the referral when sent from DPIE. TfNSW advised that internal road reviews are being delegated to Council and the Mamre Rd/Bakers Lane intersection is being dealt with under the WAD process, TfNSW never asked for this condition to be required in the first instance.





- AF advised it would appear there is no requirement for it as the condition unnecessarily duplicates the application assessment and the obtaining of post approval signoff resulting in delaying construction commencement.



4. PROPOSED MODIFICATIONS

Amendments to the Subdivision Plans and Site Masterplan (Appendix 1 of SSD 9522)

The Modification Application seeks changes to the Site layout pertaining to road widths and allotment boundaries as outlined in **Tables 3-5** below.

- Stage 1 Subdivision Plan:
 - Bakers Lane and north-south Road to be amended to 26.4m
 - Southern east-west Road to be amended to 24m
 - Cul-de-sac south of Lot 5 to be amended to 25.2m
 - Reconfiguration of allotment boundaries as outlined in **Table 3** below – which results in an overall increase of 7,961m²

TABLE 3: SSD 9522 – STAGE 1 SUBDIVISION PLAN AMENDMENTS			
Lot	Approved Lot Area Mod 1 (m ²)	Proposed Lot Area Mod 2 (m ²)	Difference (± m ²)
1	684,083	688,334	+4,251
2	140,457	140,447	-10
3	62,072	62,087	+15
4	152,034	152,148	+114
5	55,490	58,452	+2,962
Easements	55,381	48,801	-6580
Mamre Road Widening	16,601	26,050	+9,989
Bakers Lane Widening	5,548	3,308	+2,240
Total	1,171,666	1,179,627	+7,961

- Stage 2 Subdivision Plan:
 - Bakers Lane and north-south Road to be amended to 26.4m
 - Southern east-west Road to be amended to 24m
 - Cul-de-sac south of Lot 5 to be amended to 25.2m
 - Reconfiguration of allotment boundaries as outlined in **Table 4** below – which results in an overall increase of 7,961m²

TABLE 4: SSD 9522 – STAGE 2 SUBDIVISION PLAN AMENDMENTS			
Lot	Approved Lot Area Mod 1 (m ²)	Proposed Lot Area Mod 2 (m ²)	Difference (± m ²)
1	51,665	51,667	+2

**TABLE 4: SSD 9522 – STAGE 2 SUBDIVISION PLAN AMENDMENTS**

Lot	Approved Lot Area Mod 1 (m²)	Proposed Lot Area Mod 2 (m²)	Difference (± m²)
2	47,724	47,602	-122
3	36,493	36,484	-9
4	23,537	23,537	0
5	148,321	146,316	-4,199
6	33,403	33,833	+430
8	25,756	26,256	-500
9	28,502	28,899	+397
10	158,550	145,339	-13,211
11	13,976	13,978	+2
12	10,785	7,085	-3,700
13	16,591	13,159	-3,432
14	20,264	20,261	-3
15	24,653	24,642	-11
16	31,481	31,481	0
17	12,382	12,378	-4
Stage 1 – Subdivided Lot 2	136,835	136,835	0
Stage 1 – Subdivided Lot 2	1471	1443	-28
Stage 1 – Subdivided Lot 2	2151	2,169	+18
Stage 1 – Subdivided Lot 3	62,072	62,087	+15
Stage 1 – Subdivided Lot 4	152,034	152,148	+114
Stage 1 – Subdivided Lot 5	55,490	58,452	+2,962
Public Access Roads	55,381	48,801	-6,580
RE2 Edge Road	25,417	25,417	0
Bakers Lane Road Widening	5,548	3,308	-2,240



**TABLE 4: SSD 9522 – STAGE 2 SUBDIVISION PLAN AMENDMENTS**

Lot	Approved Lot Area Mod 1 (m ²)	Proposed Lot Area Mod 2 (m ²)	Difference (± m ²)
Mamre Road Widening	16,601	26,050	+9,449
Total	1,171,666	1,179,627	+7,961

- Masterplan:
 - Bakers Lane and north-south Road to be amended to 26.4m
 - Southern east-west Road to be amended to 24m
 - Cul-de-sac south of Lot 5 to be amended to 25.2m
 - Reconfiguration of allotment boundaries as outlined in **Table 5** below – which results in an overall increase of 7,961m²
 - Increase in GFA pertaining to Lots 6 and 8 as a result of the road width amendments

TABLE 5: SSD 9522 – MASTERPLAN AMENDMENTS

Lot	Approved Lot Area Mod 1 (m ²)	Proposed Lot Area Mod 2 (m ²)	Difference (± m ²)	Approved GFA Mod 1 (m ²)	Approved GFA Mod 2 (m ²)	Difference (± m ²)
1	51,665	51,667	+2	24,810	24,810	0
2	47,724	47,602	-122	23,865	23,865	0
3	36,493	36,484	-9	17,560	17,560	0
4	23,537	23,537	0	14,140	14,140	0
5	148,321	146,316	-4,199	73,963	73,963	0
6	33,403	33,833	+430	17,240	18,185	945
8	25,756	26,256	-500	14,545	14,935	390
9	28,502	28,899	+397			
10	158,550	145,339	-13,211			
11	13,976	13,978	+2			
12	10,785	7,085	-3,700			
13	16,591	13,159	-3,432			
14	20,264	20,261	-3			
15	24,653	24,642	-11			
16	31,481	31,481	0			
17	12,382	12,378	-4			



**TABLE 5: SSD 9522 – MASTERPLAN AMENDMENTS**

Lot	Approved Lot Area Mod 1 (m²)	Proposed Lot Area Mod 2 (m²)	Difference (± m²)	Approved GFA Mod 1 (m²)	Approved GFA Mod 2 (m²)	Difference (± m²)
Stage 1 – Subdivided Lot 2	136,835	136,835	0			
Stage 1 – Subdivided Lot 2	1471	1443	-28			
Stage 1 – Subdivided Lot 2	2151	2,169	+18			
Stage 1 – Subdivided Lot 3	62,072	62,087	+15			
Stage 1 – Subdivided Lot 4	152,034	152,148	+114			
Stage 1 – Subdivided Lot 5	55,490	58,452	+2,962			
Public Access Roads	55,381	48,801	-6,580			
RE2 Edge Road	25,417	25,417	0			
Bakers Lane Road Widening	5,548	3,308	-2,240			
Mamre Road Widening	16,601	26,050	+9,449			
Total	1,171,666	1,179,627	+7,961	186,123	187,378	+1,255

The revised Subdivision Plans and Masterplan are identified within **Appendix 2-4**.





Amendments to Condition A6

"The following limits apply to the development:

- (a) the maximum GFA for the land uses in the development must not exceed the limits in Table 1;*
- (b) a minimum 60 metre (m) wide corridor along the northern site boundary, as shown on the Development Layout in Appendix 1, must not be developed and must be maintained and preserved for the future Western Sydney Freight Line corridor, in accordance with the requirements of TfNSW;*
- (c) a minimum 50 m wide corridor, as shown on the Development Layout in Appendix 1, must not be developed and must be maintained and preserved for the future Southern Link Road, in accordance with the requirements of TfNSW; and*
- (d) the largest vehicle permitted to access the site is a 30m PBS Level 2 Type B.*

Table 1 Maximum GFA for Development

Land Use	Maximum GFA Square Metres (m²)
Total Warehousing	179,332
Total Office	6,791
Total GFA	186,123

Proposed Modification

Approval is sought to increase the total GFA due to the increase pertaining to warehouses on Lots 6 and 8 and follows.

Table 1 Maximum GFA for Development

Land Use	Maximum GFA Square Metres (m²)
Total Warehousing	179,477
Total Office	7,901
Total GFA	187,378

Amendments to Condition B4

Prior to commencement of road construction, the Applicant must submit design plans to the satisfaction of the Planning Secretary and the relevant roads authority which demonstrate the proposed access to the development and the internal road intersections are:

- (a) designed to accommodate the turning path of a B-Double heavy vehicle and a 19.0 m Articulated vehicle; and*
- (b) consistent with the most recent version of Austroads Guide to Road Design and TfNSW specifications*





Proposed Modification

It is requested that the above condition be deleted on the basis that information submitted with this Modification Application as contained in **Appendix 7** is satisfactory and therefore no further reviews are necessary.

Amendments to Condition B6

The Applicant must design the North South Distributor Road in accordance with the controls in Table 3, unless otherwise required by the Mamre Road Precinct Development Control Plan.

Table 3 North South Distributor Road Requirements

Road Aspect	Minimum Requirement
Total road reserve	30.7 m
Minimum road verge of 4.6 m, comprising:	
• Light pole	0.6 m
• Pedestrian path	1.5 m
• Tree planting	2.5 m
Minimum road verge of 5.6 m, comprising:	
• Light pole	0.6 m
• Shared path	2.5 m
• Tree planting	2.5 m
Design vehicle	26 m B-Double and 19.0 m Articulated Vehicle

Proposed Modification

Approval is sought to amend the road widths stipulated under Condition B6 of SSD 9522, via means of an amendment to Table 3. The amendments are as follows and include road widths for all Estate roads.

Estate Road Cross Section per SSD 9522						
Road Type & Traffic Volume	Total Road Reserve	Parking Lane Provision	Dedicated Travel Lanes	Verge Width (Footpath Pedestrian)	Number of Lanes	1.5 m Footpath or 2.5 m Shared Path
North-South Distributor Road	26.4 m	8.4 m (2 x 4.20 m)	7.0 m (2 x 3.5 m) + provision for a future 0.8 m median	5.6 m and 4.6 m	2 travel / 2 parking lane	2.5 m and 1.5 m
Industrial Road	24.0 m	8.0 m (2 x 4.00 m)	7.0 m (2 x 3.5 m)	5.0 m and 4.0 m	2 travel / 2 parking lane	2.5 m and 1.5 m
Industrial Cul-de-Sac	25.2 m	8.0 m (2 x 4.00 m)	7.0 m (2 x 3.5 m) + 1.2 m median	5.0 m and 4.0 m	2 travel / 2 parking lane	2.5 m and 1.5 m





To account for the modifications to Condition B6, the following Engineering Drawings have been provided, which are also documented within the Civil Engineering Letter of Support prepared by Costin Roe Consulting (refer to **Appendix 7**):

- Co13362.00-DA01-C
- Co13362.00-DA02-D
- Co13362.00-DA03-A
- Co13362.00-DA04-B
- Co13362.00-DA05-B
- Co13362.00-DA06-C
- Co13362.00-DA07-C
- Co13362.00-DA08-C
- Co13362.00-DA09-B
- Co13362.00-DA10-A

It is noted that the Landscape Plans (refer to **Appendix 6**) have been revised that confirm and demonstrate the relevant landscaping objectives and numerical controls can still be achieved across the Site. The Landscape Plans are considered to be consistent with the intent of the public domain landscaping as the original approval (SSD 9522) intended.

Amendments to Condition B11

The Applicant must complete the construction of the Sequence 1B upgrade to the Mamre Road and Bakers Lane intersection by 31 December 2025 to the satisfaction of TfNSW.

Proposed Modification

Following consultation with both the NSW DPIE and TfNSW, Condition B11 of SSD 9522 is requested to be removed, noting the completion of the Modified Sequence 1A intersection at Bakers Lane and Mamre Road roadworks that are approved under Mod 1 are still intended to be constructed.

Ason Group have prepared a *Technical Note* dated 6 October 2021 which considers the proposed modifications (refer to **Appendix 8**). As a result of the request to remove Condition B11, Ason Group have revised the SIDRA modelling pertaining to the Modified Sequence 1A of Mamre Road / Bakers Lane intersection with three (3) intersections including:

- Mamre Road / Erskine Park Road;
- Mamre Road / James Erskine Drive; and
- Mamre Road / Distribution Drive.

The results of the SIDRA modelling are outlined within **Table 6** below.

TABLE 6: SIDRA MODELLING RESULTS (MODIFIED SEQUENCE 1A - YEAR 2025)			
Intersection	Peak Period	Average Delay (Seconds)	Level of Service (LoS)
Mamre Road / Erskine Park Road	AM	24.9	B
	PM	25.9	B
	AM	13.5	A



**TABLE 6: SIDRA MODELLING RESULTS (MODIFIED SEQUENCE 1A – YEAR 2025)**

Intersection	Peak Period	Average Delay (Seconds)	Level of Service (LoS)
Mamre Road / James Erskine Drive	PM	11.6	A
Mamre Road / Distribution Drive	AM	9.9	A
	PM	13.6	C
Mamre Road / Bakers Lane	AM	41.3	C
	PM	47.0	D

In accordance with **Table 6** outlined above, all key intersections are expected to operate at an acceptable LoS (LoS D or better) during both the AM and PM peak periods and the Modified Sequence 1A can readily accommodate the potential estate-wide traffic associated with the Estate Masterplan (refer to **Appendix 8**), as well as the southern allotments future traffic generation, and as such Ason Group consider it acceptable to remove the currently approved Sequence 1B from the signal capacity perspective roadworks. Therefore, the proposed modifications are considered supportable on traffic generation grounds.





5. JUSTIFICATION FOR MODIFICATIONS PROPOSED

The proposed changes sought under this Modification Application are justified on the following basis:

- The reduced road widths align with the anticipated strategic modelling outcomes for the broader Mamre Road Precinct. The reduction proposed in this respect will ensure that the internal Estate roads are consistent in width with those of adjoining and adjacent properties that will be developed in the future.
- The reduction in the road widths maintains operational and safety outcomes in accordance with Australian Standards.
- The road widths proposed will continue to support large scale warehousing, industrial and logistics operations within the Estate by accommodating the maximum size vehicles required.
- The reduced road widths do not compromise the quality of the landscaped outcomes within the Estate and ensures that the underlying objectives, as envisaged under the Western City District Plan in this respect are maintained in terms of contributing to mitigating the heat island effect.
- If the road widths as approved under SSD 9522 were maintained, it is considered that this would result in the inefficient utilisation of industrial zoned land. The reduction in this respect ensures that there are some minor configurations to certain industrial development lots which provides for greater efficiency and in some instances minor building footprint expansions (0.7% increase in GFA) to enhance employment generating operations. This aligns directly with the zone objectives in terms of employment creation.
- The changes as noted above in terms of the building footprints will have no detrimental or adverse impact on the visual outcomes as anticipated within the original approval. Specifically, the visual impacts of the Estate when viewed from the adjoining South Creek area and RE1 zoned land would not be materially affected.
- The changes to the proposed road widths, some development allotments and building footprints, will have no adverse material impact on the stormwater quantity and quality outcomes per the original approval. The stormwater infrastructure is appropriately sized to accommodate the development on this basis.
- All outcomes associated with biodiversity, Aboriginal Heritage, noise, air quality, waste management and traffic generation and parking, will accord with those as assessed under SSD 9522 to ensure the overall development remains within an acceptable scale and intensity.
- The LoS at the Mamre Road and Bakers Lane intersection will not be adversely affected and all outcomes as assessed under previous applications will be maintained.





6. STATUTORY PLANNING FRAMEWORK

6.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principal planning and development legislation in New South Wales. Pursuant to Part 4, the proposed development is considered Local Development. The modifications sought to Development Consent SSD 9522 warrants consideration of the provisions of Section 4.55(1A) of the EP&A Act. The following tests require consideration in this instance:

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: Given the nature and extent of the changes proposed, the modifications sought would have no undue environmental impacts. Overall, there is no substantial intensification of the proposal as approved.

- 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 granted was modified (if at all), and*

Comment: In accordance with the application of the 'substantially the same' test, the focus of the test is on 'the development' as a whole. Accordingly, a comparison must be made between the development as modified and the development that was originally approved (*Scrap Realty v Botany Bay City Council* [2008] NSWLEC 333 at [16]).

Further precedence confirms, that to pass the test, the result of the comparison must include a finding that the modified development is 'essentially' or 'materially' the same as the approved development (*Moto Developments (No 2) v North Sydney Council* [1999] NSWLEC 280 at [55]; *Vacik v Penrith City Council* [1992] NSWLEC 8).

Both a qualitative and quantitative assessment of the Modification Application is required. Case Law confirms, that differences in qualitative and quantitative effects do not necessarily mean that the character of a development is changed in a material respect (*Davi Development v Leichardt Council* (2007) NSWLEC 106). Accordingly, even if each of the changes / modifications proposed to be made are significant in their own right, the proposed modifications may still be considered substantially the same as a whole (*Tyagrah Holdings v Byron Bay Shire Council* [2008] NSWLEC 1420 at [12]).

Quantitative Assessment

With respect to the abovementioned legal interpretation and pursuant to listed Case Law, a quantitative assessment confirms that:

- Reconfiguration of the Site layout is proposed to accommodate the future road width dimensions following extensive consultation undertaken with the NSW DPIE and TfNSW.
- There will be a change with respect to the Site layout, including a minor increase in the total Gross Floor Area (GFA) – Lots 6 & 8 (increase of 1,255m², representing a 0.7% increase) – distributed across the Site.





- Access to the Estate and the allotments will remain as approved under SSD 9522.

Notwithstanding, if comparable review of the 'before' and 'after' (subject Modification Application – SSD 9522 MOD 2) Site Layout Plans (refer to **Appendix 3-8**) were undertaken, the proposed modifications do not materially alter the Site Layout of the approved development (SSD 9522) (*Gordon & Valich Pty Ltd v City of Sydney Council* [2007] NSWLEC 780).

Additionally, in relation to the reconfiguration of the Site Layout, the power under Section 4.55(1A) of the EP&A Act extends to permit the carrying out of development approved by the original consent on land additional to the land to which the consent as originally granted applied (*Scrap Realty Pty Ltd v Botany Bay City Council* [2008] NSWLEC 333 at [20]).

In relation to GFA, from a quantitative perspective an increase in GFA from 186,123m² (as approved under Mod 1) to 187,378m² representing an increase of 0.7% GFA, is considered minor. It is important to note, that the total Site Area of the revised Site Layout would remain as approved. Notwithstanding, and as stated above, the proposed modifications as a whole may still be considered 'substantially the same'.

Accordingly, it is not considered that the proposed modifications to the Site layout; and the increase in total GFA, results in a 'radical transformation' of the original Development Consent (SSD 9522) or as modified (SSD 9522 MOD 1).

Qualitative Assessment

With respect to the abovementioned interpretation and pursuant to listed Case Law, a qualitative assessment with regard to SSD 9522 confirms that:

- The character and purpose of the original development as modified is a 24/7 operational Warehouse, Logistics and Industrial Facilities Hub, with associated office, supporting infrastructure and services, car parking and landscaping.
- The essential feature of the original development and as modified is to provide a Warehouse, Logistics and Industrial Facilities Hub, that provides warehousing and logistics facilities that support and economic and employment-generating development.
- It represents orderly and sequential development within the wider WSEA and Mamre Road Precinct.

The proposed modifications would not materially change either of the abovementioned items, for which it is confirmed, that the modifications sought are 'substantially the same' development as the development approved under SSD 9522.

In summary, it is confirmed that the proposed modifications are capable of being approved pursuant to Section 4.55(1A) of the EP&A Act. With respect to the proposed increase in GFA across the Site when considered in isolation, the character and purpose of the original development as a whole will remain unchanged (i.e. 24/7 operational Warehouse, Logistics and Industrial Facilities Hub), as will the essential feature of the original development (i.e. providing a warehousing and logistics operations, that provide facilities for employment generation purposes as envisaged within the wider WSEA and Mamre Road Precinct).

- 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

Comment: Given the nature of the modification, public notification of this Application should not be required as the outcomes of the proposed development would remain substantially the same as previously approved.

- 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: No submissions are apparent at the time of writing this Planning Report in accordance with the Act. The modification does not give cause to any substantial changes which warrant notification.

Having regard to the above, the proposed modifications are considered to be substantially the same as the development approved under SSD 9522 as modified as it involves only minor amendments pertaining to the road widths within the Estate access roads.

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

The Site forms part of the WSEA and is situated under the Land Application Area, Precinct 12 – Mamre Road of SEPP WSEA. The key considerations as relevant to the SEPP are addressed hereunder.

6.2.1 Permissibility under the SEPP

With respect to the proposed development, under SEPP WSEA, the Subject Site is identified as IN1 General Industrial zoned land. Additionally, the western portion of the Subject Site comprises pockets of RE1 Public Recreation and RE2 Private Recreation zoned land; however, for the purposes of the proposal, there is no built form proposed within these identified areas (Lots 14-17) requiring further consideration under this Modification Application.

Outlined below in **Table 7**, is a summary of all SEPP (WSEA) 2009 provisions as they apply to the proposed development.

TABLE 7: SEPP (WSEA) 2009 PROVISIONS	
Clause	Comment
Clause 18: Requirements for Development Control Plans	A site-specific DCP has been prepared for this Site and was approved under SSD 9522. The proposed development has been designed to comply with the controls specified in the site-specific DCP which addressed in Section 7 .
Clause 20: Ecologically Sustainable Development	The proposal as modified continues to achieve all of the outcomes as per the original approval.
Clause 21: Height of Buildings	The additional warehouse area proposed will be consistent with that approved under the original approval.
Clause 22: Rainwater Harvesting	All rainwater harvesting will be achieved as per the outcomes under the original approval.



**TABLE 7: SEPP (WSEA) 2009 PROVISIONS**

Clause	Comment
Clause 23: Development adjoining residential land	The Site does not adjoin residential land.
Clause 24: Development involving subdivision	No additional allotments are proposed to be created under this Modification Application.
Clause 25: Public Utility Infrastructure	All services and infrastructure provision will remain unchanged as per the original approval.
Clause 26: Development on or in vicinity of proposed transport infrastructure routes	The changes proposed have no material impact on the planned transport infrastructure routes.
Clause 27: Exceptions to development standards	There are no development standards which are affected by the Modification Application.
Clause 28: Relevant acquisition authority	The Modification Application will have no material impact in this respect.
Clause 29: Industrial Release Area satisfactory arrangements for the provision of regional transport infrastructure facilities	A Voluntary Planning Agreement (VPA) was executed under SSD 9522 pertaining to the Subject Site for which satisfactory arrangements have been made.
Clause 31: Design Principles	The minor additional built form proposed does not compromise the design outcomes as approved under the original approval as only minor extensions to the buildings on Lot 6 and 8 are proposed.
Clause 32: Preservation of trees	No additional vegetation is to be removed under the subject Modification Application.
Clause 33A: Development near zone boundaries	The proposed development does not rely on Clause 33A to carry out the Development.
Clause 33B: Development of land within or adjacent to transport investigation area	The minor nature of the proposal would not impact the transport investigation area. The outcomes of the original approvals would not be compromised.
Clause 33C: Development within the Mamre Road Precinct	The minor nature of the proposal would not impact the transport investigation area. Notwithstanding, consultation has been completed.
Clause 33D: Development in areas subject to aircraft noise	The Subject Site is located outside of the Western Sydney Airport Aircraft Noise Exposure Forecast (ANEF) 2030 contours.
Clause 33E: Airspace operations	The Site is located outside of the 20-25 ANEF contour with respect to Western Sydney Airport; therefore, satisfying Clause 33D of SEPP (WSEA) 2009.
Clause 33F: Development of land adjacent to Airport	The proposed development as modified would have no material impact the airport.
Clause 33G: Water Recycling and Conservation	The proposed development does not comprise a water recycling facility, nor are there provisions for a water recycling facility to service the Site requiring further consideration.
Clause 33H: Earthworks	The proposal would have no impact on earthworks outcomes as approved under SSD 9522.





TABLE 7: SEPP (WSEA) 2009 PROVISIONS

Clause	Comment
Clause 33I: Development on flood prone land	All development under this Modification Application would be outside the 1% AEP and above the PMF.
Clause 33J: Heritage conservation	All development under this Modification Application is within the identified area to be disturbed under the original approval and requires no further consideration.
Clause 33K: Consent for clearing native vegetation	All biodiversity impacts have been previously assessed. No further vegetation is to be removed.
Clause 33L: Stormwater, water quality and water sensitive design	As confirmed within the Civil Engineering Letter of Support, the stormwater management outcomes would be maintained as approved.





7. SSD 9522 DEVELOPMENT CONTROL PLAN 2020

Compliance with respect to the proposed modifications in relation to the SSD 9522 Development Control Plan is achieved. **Table 8** outlined below, provides the key numeric controls of the DCP as they apply to the Site and compliance with the key controls.

TABLE 8: DCP CONTROLS		
Control	Requirement	Proposed Development
Industrial Lot Size		
Minimum Lot Size	2,500 m ²	All lots comply
Minimum Frontage	20 metres	All lots comply
Ancillary Lot Size		
Minimum Lot Size	2,500 m ²	All lots comply
Minimum Frontage	20 metres	No change under this Mod
Setbacks		
Minimum Estate Road Setback	7.5m	Lot 1 – 16.6m Lot 2 – 129.3m (internal Lot) Lot 3 – 7.5m Lot 4 – 23m Lot 5 – 32.5m Lot 6 – 7.5m Lot 8 – 14.3m
Car Parking		
Minimum Parking Provision	1/300m ² Warehouse 1/40m ² Ancillary Office	Complies Lots 6 and 8 and provide 78 and 66 spaces respectively





8. IMPACTS OF THE DEVELOPMENT (AS MODIFIED)

The key planning matters for consideration, as they relate to the modified proposal are addressed in the ensuing subsections.

8.1 Context and Setting

The proposed modifications in relation to SSD 9522 would remain consistent with the intended development as approved. The proposed modification would enable the efficient and sustainable use of such designated industrial land.

The proposed modifications would ensure the development is compatible with respect to surrounding industrial land uses and the consistent with the desired character for the broader Mamre Road Precinct. The Subject Site is not located in close proximity of any residential development or other sensitive land use and would not exhibit any adverse environmental or amenity impacts. It is noted that the Site is identified as being bushfire prone land and comprises items of ecological significance and potential for Aboriginal Cultural Heritage, all of which have been previously assessed under SSD 9522. Any recommendations previously stipulated (and any additional recommendations) will be implemented accordingly with respect to the proposed modifications.

With respect to the proposed modifications, the Site layout (informed by the revised Subdivision Plans; Masterplan; and Landscape Plans) would continue to ensure a functional operation can continue to be achieved, whilst not impacting on any other surrounding operations.

The minor additional built form pertaining to Lots 6 and 8 is indiscernible when viewed from surrounding properties and the public domain.

The proposed modifications would not exhibit any significant environmental impacts and would not adversely impact on the amenity or operations of any adjoining sites within close proximity to the Subject Site. Therefore, the proposed modifications in relation to SSD 9522, would be considered compatible with the Site context as approved.

8.2 Traffic and Transport

Ason Group have prepared a *Technical Note* which considers the proposed modifications (refer to **Appendix 8**). As a result of the request to remove Condition B11, Ason Group have revised the SIDRA modelling pertaining to the Modified Sequence 1A of Mamre Road / Bakers Lane intersection with three (3) intersections including:

- Mamre Road / Erskine Park Road;
- Mamre Road / James Erskine Drive; and
- Mamre Road / Distribution Drive.

The results of the SIDRA modelling are outlined within **Table 6** of this Planning Report.

In accordance with **Table 6** outlined above, all key intersections under the 2025 scenario are expected to operate at an acceptable LoS (LoS D or better) during both the AM and PM peak periods and the Modified Sequence 1A can readily accommodate the potential Estate-wide traffic associated with the site-wide Masterplan (refer to **Appendix 8**), as well as the southern allotments future traffic generation.





As such it is considered acceptable to replace the currently approved Sequence 1B from the signal capacity perspective.

In relation to the 2026, 2031 and 2036 scenario, the following results are derived:

TABLE 9: SIDRA MODELLING RESULTS (MODIFIED SEQUENCE 1A – YEAR 2026)

Intersection	Peak Period	Average Delay (Seconds)	Level of Service (LoS)
Mamre Road / Erskine Park Road	AM	41.8	C
	PM	28.2	B
Mamre Road / James Erskine Drive	AM	16.9	B
	PM	11.6	A
Mamre Road / Distribution Drive	AM	10.1	A
	PM	13.8	A
Mamre Road / Bakers Lane	AM	41.1	C
	PM	48.1	D

TABLE 10: SIDRA MODELLING RESULTS (MODIFIED SEQUENCE 1A – YEAR 2031)

Intersection	Peak Period	Average Delay (Seconds)	Level of Service (LoS)
Mamre Road / Erskine Park Road	AM	51.1	D
	PM	33.0	C
Mamre Road / James Erskine Drive	AM	12.5	A
	PM	13.1	A
Mamre Road / Distribution Drive	AM	9.5	A
	PM	14.3	A
Mamre Road / Bakers Lane	AM	40.6	C
	PM	51.1	D

It is indicated that all key intersections are expected to operate at an acceptable LoS (LoS D or better) during both AM and PM peak periods and the approved Modified Sequence 1A (for 2026 and 2031) can readily accommodate the potential Estate-wide traffic associated with the GFA being 421,820 m² and the southern lots.



**TABLE 11: SIDRA MODELLING RESULTS (MODIFIED SEQUENCE 1A - YEAR 2036)**

Intersection	Peak Period	Average Delay (Seconds)	Level of Service (LoS)
Mamre Road / Erskine Park Road	AM	72.6	F
	PM	36.3	C
Mamre Road / James Erskine Drive	AM	16.0	B
	PM	19.8	B
Mamre Road / Distribution Drive	AM	9.1	A
	PM	20.5	B
Mamre Road / Bakers Lane	AM	40.2	C
	PM	53.1	D

Table 11 indicates that all key intersections (excluding the Mamre Road / Erskine Park Road during the AM peak hour) are expected to operate at an acceptable LoS (LoS D or better) during both the AM and PM peak hours by 2036. However, the Mamre Road / Erskine Park Road intersection operates at a LoS F only for the AM peak hour. Accordingly, a further scenario without considering the traffic associated with the southern lots for the AM peak hour at this intersection with minor changes to the phase timing has been prepared as shown in **Table 12**.

TABLE 12: SIDRA MODELLING RESULTS (MODIFIED SEQUENCE 1A - YEAR 2036 - WITHOUT SOUTHERN LOTS)

Intersection	Peak Period	Average Delay (Seconds)	Level of Service (LoS)
Mamre Road / Erskine Park Road	AM	51.6	D

As shown above in **Table 12**, the ultimate traffic (associated with the 421,820m² GFA) can be accommodated through this signalised intersection with a LoS D during the AM peak hour. This indicates that the MOD 2 traffic without considering the Southern Lots would result in an acceptable outcome.

Therefore, and as it relates to this proposal the approved Sequence 1A Modified plan can accommodate the ultimate built form of the well as the southern lot's traffic (for years 2026, 2031 and 2036) satisfactorily. Accordingly, Sequence 1B can be removed without consequences on the network (as it was added without the need to support the traffic proposed by SSD9522).

Parking with respect to lots 6 and 8 is required at a rate of 1/300m² for 1/40m² for office. Provision has been made as follows:

- Lot 6 – 78 spaces (78 required)
- Lot 8 – 66 spaces (65 required)

Compliance is therefore achieved in accordance with the applicable DCP.





8.3 Soils and Water

It is noted, that the existing stormwater management system and Water Sensitive Urban Design (WSUD) strategy previously approved would be retain whereby pollution reduction targets and stormwater quality and quantity outcomes would remain compliant.

Costin Roe have prepared a letter of support which summarises the changes associated with the road cross sections and confirms consistency between the approved civil engineering design and stormwater management plan for the wider Estate (refer to **Appendix 7**).

For context, the approved road cross section (under SSD 9522) is based on a Collector Road with a 5 m central median in accordance with the draft Mamre Road Precinct DCP. Following ongoing consultation with the NSW DPIE, it is proposed to amended the roadway arrangements throughout the Site. **Table 13** outlined below demonstrates the approved road cross section arrangement, which was adopted for all roads within the Estate.

TABLE 13: ESTATE ROAD CROSS SECTION PER SSD 9522						
Road Types	Total Road Reserve	Parking Lane Provisions	Dedicated Travel Lanes	Verge Width (Footpath Pedestrian)	Number of Lanes	1.5m Footpath or 2.5m Shared Path
All roads	30.6 m	N/A	7.0 m (2 x 3.5 m) 8.0 m (2 x 4.0 m) + 5.0 m median	4.6 m 5.6 m	4 travel / 0 parking lane	1.5 m 2.5 m

Table 14 outlined below includes the proposed road cross sections included as part of the subject Modification Application. Costin Roe note, that the provision for a 0.8 m wide median is included in the distributor road section; however, is not proposed for construction. Furthermore, a 1.2 m wide median is proposed to be installed within the industrial cul-de-sac to ensure left-in and left-out movements for all entry and exits can be achieved, for which this arrangement has been agreed with the NSW DPIE and Penrith City Council.

TABLE 14: ESTATE ROAD CROSS SECTION PER SSD 9522						
Road Type & Traffic Volume	Total Road Reserve	Parking Lane Provisions	Dedicated Travel Lanes	Verge Width (Footpath Pedestrian)	Number of Lanes	1.5m Footpath or 2.5m Shared Path
North-South Distributor Road	26.4 m	8.4 m (2 x 4.20 m)	7.0 m (2 x 3.5 m) + provision for a future	5.6 m and 4.6 m	2 travel / 2 parking lane	2.5 m and 1.5 m



**TABLE 14: ESTATE ROAD CROSS SECTION PER SSD 9522**

Road Type & Traffic Volume	Total Road Reserve	Parking Lane Provisions	Dedicated Travel Lanes	Verge Width (Footpath Pedestrian)	Number of Lanes	1.5m Footpath or 2.5m Shared Path
			0.8 m median			
Industrial Road	24.0 m	8.0 m (2 x 4.00 m)	7.0 m (2 x 3.5 m)	5.0 m and 4.0 m	2 travel / 2 parking lane	2.5 m and 1.5 m
Industrial Cul-de-Sac	25.2 m	8.0 m (2 x 4.00 m)	7.0 m (2 x 3.5 m) + 1.2 m median	5.0 m and 4.0 m	2 travel / 2 parking lane	2.5 m and 1.5 m

In accordance with the proposed modifications outlined in **Table 14** above, Costin Roe confirm, that there are no material changes required or proposed to the Estate civil engineering design, earthworks design, stormwater management system or stormwater discharge arrangements. Accordingly, there will be no change to the assessed management systems and / or discharge arrangements, including on-site detention, water quality and stream health measures.

8.4 Acoustic

The proposed modifications would not alter the overall Site's operations, such that additional noise generating sources or activities would be undertaken, which would require further investigations to be undertaken by an Acoustic Engineer. Therefore, no additional noise and vibration assessment is considered to be required to support this Modification Application. Compliance would be maintained as approved.

8.5 Flora and Fauna

The proposed modifications would not result in additional biodiversity impacts at the Site, for which would constitute further investigations to be undertaken.

8.6 Waste

The proposed modifications would not generate additional waste streams at the Site, which have not already been considered as part of SSD 9522. Wastes generated at the Site would continue to primarily comprise general office and household type recyclables from the office and staff kitchen areas, green wastes from the landscaped areas, wrapping and packaging materials from the relevant warehouses and spent spill kit materials.

8.7 Building Code of Australia

The minor additional building footprint for the warehouses on Lots 6 and 8 are subject to compliance in relation to the Building Code of Australia and will be verified as part of the Construction and Occupation Certificate process.





8.8 Construction

All works on the Site would be carried out in accordance with the conditional requirements of any consent issued with the Modification Application. Appropriate measures would be undertaken to mitigate potential impacts from the proposed modifications, including dust, noise, odours and traffic impacts.

8.9 Cumulative Impacts

No foreseeable cumulative impacts would be anticipated as a result of the proposed modifications sought. Rather, the proposed modifications would remain substantially the same development with respect to what was previously approved under SSD 9522 within an area zoned IN1 General Industrial – which, is commensurate with the intended development of the Site and its surrounds.

8.10 Suitability of the Site for Development

The proposed modifications are considered minor in nature and thus remain compliant with the relevant standards and controls listed under SEPP WSEA and the site-specific DCP approved under SSD 9522. Furthermore, the outcomes of the proposed development would remain generally consistent with the original approval.

8.11 Any Submissions made in accordance with the Act

No submissions have been received in relation to the proposed development; however, the applicant is willing to address any submissions, should they be received by the NSW DPIE.

8.12 The Public Interest

The proposed modifications would have no adverse impact on the public interest.

Additionally, through the provision of employment-generating development, the proposed modifications in relation to SSD 9522 would contribute to serve the emerging Western Sydney region by providing employment-generating opportunities within the Penrith LGA.

8.13 Site Suitability

The Site is considered highly suitable to accommodate the changes sought under the subject Modification Application as:

- It is zoned for industrial purposes and is located within a precinct envisaged for such use.
- It has the benefit of an existing approval for the construction and operation of warehouse and industrial facilities.
- Suitable mitigation measures are in place under the parent Development Consent.





9. CONCLUSION

The proposal has been prepared taking into consideration the following key matters:

- The development history of the Site;
- Previously approved development in relation to SSD 9522;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.55(1A) of the EP&A Act; and
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments.

The proposed modifications to SSD 9522 are considered to be of minor environmental impact, given the extent of changes proposed to the approved development. The development as modified is substantially the same as the original approval, and it is therefore considered that the proposal should be supported on the basis that:

- There are no undue amenity impacts associated with the proposed amendments; and,
- The revised scheme provides for optimal functionality for the end users involved.

Furthermore, the proposed modifications would have no undue impact on the public interest; therefore, based on the above, the modifications proposed to Development Consent SSD 9522 are considered worthy of support by the NSW DPIE.

Your sincerely,

Andrew Cowan
Director
Willowtree Planning Pty Ltd

