



## **Section 4.55 Modification Application To DA-57297/2019**

### **Modification to approved Warehouse Retail Premises**

197 The Entrance Road, Erina  
Lot 1 DP 603459

Prepared by Willowtree Planning Pty Ltd on behalf of  
Full Tilt Constructions Pty Ltd

August 2020

**Section 4.55(2) Modification Application**  
Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

<b>Document Control Table</b>			
Document Reference:	WTJ20-348 – Section 4.55(2) Modification Application		
Contact	Bianca Pupovac		
Version and Date	Prepared by	Checked by	Approved by
Version No. 1 - 30/04/2020	Bianca Pupovac Town Planner	Ashleigh Smith Associate	Thomas Cook Director

© 2020 Willowtree Planning Pty Ltd

**This document contains material protected under copyright and intellectual property laws and is to be used only by and for the intended client. Any unauthorised reprint or use of this material beyond the purpose for which it was created is prohibited. No part of this work may be copied, reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system without express written permission from Willowtree Planning (NSW) Pty Ltd.**

**TABLE OF CONTENTS**

<b>PART A</b>	<b>PRELIMINARY .....</b>	<b>4</b>
1.1	INTRODUCTION .....	4
1.2	DEVELOPMENT HISTORY .....	4
1.3	SUMMARY OF PROPOSED MODIFICATIONS .....	5
<b>PART B</b>	<b>SITE ANALYSIS .....</b>	<b>6</b>
2.1	SITE LOCATION AND EXISTING CHARACTERISTICS .....	6
<b>PART C</b>	<b>PROPOSED MODIFICATION .....</b>	<b>9</b>
3.1	OVERVIEW .....	9
3.2	PROPOSED DESIGN MODIFICATIONS .....	9
3.3	PROPOSED CONDITIONS OF CONSENT .....	10
<b>PART D</b>	<b>LEGISLATIVE AND POLICY FRAMEWORK .....</b>	<b>12</b>
4.1	ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 .....	12
4.2	ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000 .....	16
4.3	WATER MANAGEMENT ACT 2000 .....	16
4.4	BIODIVERSITY CONSERVATION ACT 2016 .....	17
4.5	ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 .....	17
4.6	RURAL FIRES ACT 1997 .....	17
4.7	STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007 .....	18
4.8	STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) .....	19
4.9	GOSFORD LOCAL ENVIRONMENTAL PLAN 2014 .....	20
4.10	DRAFT CENTRAL COAST LOCAL ENVIRONMENTAL PLAN 2018 .....	24
4.11	NON-STATUTORY PLANNING FRAMEWORK OVERVIEW .....	24
4.12	GOSFORD DEVELOPMENT CONTROL PLAN 2013 .....	24
4.13	CENTRAL COAST REGIONAL PLAN 2036 .....	24
<b>PART E</b>	<b>LIKELY IMPACTS OF THE DEVELOPMENT .....</b>	<b>26</b>
5.1	CONTEXT AND SETTING .....	26
6.2	DESIGN AND APPEARANCE .....	26
6.3	TRAFFIC AND TRANSPORT .....	26
6.4	STORMWATER AND FLOODING .....	27
6.5	WASTE .....	27
6.6	FLORA AND FAUNA .....	28
6.7	BUSHFIRE AND HAZARD REDUCTION .....	28
6.8	CONSTRUCTION .....	28
6.9	NATIONAL CONSTRUCTION CODE .....	28
6.10	SUITABILITY OF THE SITE FOR DEVELOPMENT .....	28
6.12	THE PUBLIC INTEREST .....	28
<b>PART F</b>	<b>CONCLUSION .....</b>	<b>29</b>

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

### APPENDICES

<b>1</b>	Development Consent	Central Coast Council
<b>2</b>	Survey Plan	Bee & Lethbridge
<b>3</b>	Architectural Plan	Full Tilt Constructions Pty Ltd
<b>4</b>	Civil Design	Sparks and Partners
<b>5</b>	Water Cycle Management Report	Sparks and Partners
<b>6</b>	Flood Impact Statement	WMA Water
<b>7</b>	Traffic Impact Assessment	Traffix
<b>8</b>	Bushfire Statement	Peterson Bushfire
<b>9</b>	BCA Report	Certis
<b>10</b>	Waste Management Plan	Full Tilt Constructions
<b>11</b>	Cost of works	Mitchell Brandtman
<b>12</b>	GDCP2013	Willowtree Planning
<b>13</b>	NRAR Clarification – Email Correspondence	NRAR
<b>14</b>	Landscape Plan	Monaco Design P/L

### FIGURES

Figure 1. Cadastral Map (Source: Six Map, 2020) .....	6
Figure 2. Aerial Map (Source: Near Map, 2020) .....	7
Figure 3. Surrounding Context (Google Maps, 2020).....	8
Figure 4. Bushfire Prone Land (Source: Peterson Bushfire, 2019) .....	18
Figure 5. Proximity Area for Coastal Wetlands (Coastal Managements SEPP Maps, 2020).....	19
Figure 6. GLEP2013 Land Zoning Map (NSW Legislation, 2020) .....	22

### TABLES

Table 1. Proposed Modifications .....	9
Table 2. Development Statistic .....	9
Table 3. Section 4.55 of the EP&A Act .....	12
Table 4. Section 4.15(A) Considerations.....	16
Table 5. GLEP2014 Development Standards .....	22

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

### PART A PRELIMINARY

#### 1.1 INTRODUCTION

This planning statement has been prepared by Willowtree Planning on behalf of Full Tilt Constructions Pty Ltd, and is submitted to Central Coast Council (Council) in support of the proposed modification to the approved warehouse and retail units at 197 The Entrance Road, Erina (the Site) and development consent **DA-57297/2019 (Appendix 1)** granted on 29 January 2020.

This application is made pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), on behalf of Full Tilt Constructions, which seeks to modify **DA-57297/2019**.

Development consent **DA-57297/2019 (Appendix 1)** granted consent for:

*NOMINATED INTEGRATED Warehouse & Retail Units*

The modification aims to achieve a development outcome which achieves a more appropriate design outcome which responds to the context of the Site and its surrounding locality. The development, as modified, will result in substantially the same development as the development for which consent was granted by Council for **DA-57297/2019**, with no measurable environmental impact resulting from the modifications proposed.

The proposed modifications sought are outlined within **Part C** below.

The structure of the statement is as follows:

- **Part A** Preliminary
- **Part B** Site Analysis
- **Part C** Proposed Modification
- **Part D** Legislative and Policy Framework
- **Part E** Likely Impacts of the Development
- **Part F** Conclusion

The proposed modifications are further explained in the ensuing sections of this statement.

#### 1.2 DEVELOPMENT HISTORY

Central Coast Council granted consent on 29 January 2020 under **DA-57297/2019** for the construction of three (3) retail units and five (5) warehouses, each of which were to be occupied by multiple end-user's for the purpose of storage and sales.

The Site subject to **DA-57297/2019** directly adjoins 199 The Entrance Road, Erina which was subject to development consent **DA-57298/2019** for Specialised retail premises. Both lots share an accessway where an ingress and egress is provided from The Entrance Road. This accessway is for private use only.

It is acknowledged that a modification is also being sought to **DA-57298/2019** under a separate modification application.

## **Section 4.55(2) Modification Application**

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

### **1.3 SUMMARY OF PROPOSED MODIFICATIONS**

The modifications sought in relation to the approved development include amendments to the conditions of consent and approved development plans. In summary, the proposed modifications comprise of the following:

#### **1. Modification to Internal Layout**

- Reconfiguration of warehouse / retail layout to now comprise of one (1) retail unit and three (3) warehouses, reducing the total number of tenancies across the Site.

#### **2. Modifications to External Elements**

- Merge the approved building envelopes into one (1) building;
- Reconfiguration of car parking layout, including the reduction of nine (9) car parking spaces;
- The existing 900mm stormwater pipe to remain within easement;
- Flood mitigation works – redirection of waterflow to reach to western boundary so stormwater can be correctly dispatched into Erina Creek; and
- Material changes consisting of external walls, columns, and roof support to be timber ie CLT/glulam/LVL

The proposed modifications are further explained in the ensuing sections of this statement.

## **PART B      SITE ANALYSIS**

### **2.1      SITE LOCATION AND EXISTING CHARACTERISTICS**

The Site is identified as 197 The Entrance Road, Erina, being legally described as Lot 1 DP 603459 (the Site). The Site is subject to the provisions of the *Gosford Local Environmental Plan 2014* (GLEP2014) and is zoned B5 Business Development.

The Site in its existing state is vacant, with the preceding building demolished under a Complying Development Certificate (CDC) (Reference no. **CDC-190168/01**). The preceding building was understood to be a furniture and homewares retail outlet store, identified as 'Unique Furnitures & Homewares'.

The Site comprises a largely rectangular lot, with a Site area of approximately **4,117m<sup>2</sup>** and a primary frontage to The Entrance Road, which is identified as a classified/regional road, and adjoins the Erina Creek to the rear.

Vehicular egress and ingress to the Site is facilitated via The Entrance Road, which contains a shared vehicular driveway for the Site and the adjoining Site (199 The Entrance Road, Erina) to the North-East.



**Figure 1. Cadastral Map** (Source: Six Map, 2020)

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina



Figure 2. Aerial Map (Source: Near Map, 2020)

### 2.1 SITE CONTEXT

The Site is located in the suburb of Erina, which presents as a mixed-use land area, comprising industrial, light-industrial, commercial, educational and retail land uses. The Site is identified as being located on a classified road and in proximity to numerous major and arterial road corridors, including the following;

- The Entrance Road
- Terrigal Drive
- Avoca Drive
- Karalta Road

The nearest sensitive land use is identified as Erina Creek (zoned E2 Recreational Waterways), which adjoins the Site to the rear. The proposal is setback from the creek, with the proposed hardstand area being located 6m from the top of the bank.

The Site is also well serviced by public transport infrastructure, with bus stops positioned along The Entrance Road (~500m South from the Site), Karalta Lane (~1km North-East from the Site), James Sea Drive and Ernest Street (~ 1.1km South-West from the Site) and Barralong Road (approximately 650m from the Site). Train services are also within the broader vicinity of the Site with Gosford Train station being located to the West (~5km West from the Site).

The Site is located within proximity to numerous land uses, including light industrial, commercial and educational land uses to the south-west and predominantly commercial and residential land uses to the north-east. The Site is also located in immediate proximity to Erina High School, Erina Fair Shopping Centre, Fountain Plaza, Woodport Aged Care and the Gosford Cadet Corps. Similar land uses to the proposed development, near the Site include the following:

- Bunnings Erina North;
- Kennards Self Storage Erina;
- O'Brien Glass Central Coast;
- Bristol Paint & Decorator Centre; and
- A clustering of Industrial land uses located on Barralong Road.



## **PART C PROPOSED MODIFICATION**

### **3.1 OVERVIEW**

This Section 4.55(2) application seeks consent to modify the approved warehouse and retail units to facilitate a more appropriate development outcome which achieves an improved level functionality to the operations of the end user.

The modifications sought have been identified throughout the detailed design process in response to the context of the desired future proposed use of the development and Site location.

### **3.2 PROPOSED DESIGN MODIFICATIONS**

The modifications proposed are detailed in **Table 1** below.

<b>Table 1. Proposed Modifications</b>	
<b>Modifications</b>	
<ul style="list-style-type: none"> <li>▪ Two (2) buildings combined to a single building;</li> <li>▪ Building relocated 3m off southern boundary outside of drainage easement;</li> <li>▪ Due to the reconfiguration of the built form the existing 900mm stormwater pipe to remain within easement;</li> <li>▪ External walls, columns, and roof support to be timber ie CLT/glulam/LVL;</li> <li>▪ Reduction in overall gross floor area (GFA);</li> <li>▪ The three (3) retail units and five (5) warehouses converted to one (1) retail and three (3) warehouses;</li> <li>▪ Reduction in number of car parking spaces from 33 to 24 car parking spaces;</li> <li>▪ Reduction in the number of accessible car parking spaces, from two (2) to one (1);</li> <li>▪ The southern boundary will provide a 3m concrete path to allow sufficient flood flow from The Entrance Road to Erina Creek, as per previously issued Flood Assessment and Civil Design; and</li> <li>▪ Service bay is located on the edge of the 6m rear setback/buffer to Erina Creek.</li> </ul>	

**Table 2** below summarises the quantitative changes which shall result in the propose modifications.

<b>Table 2. Development Statistic</b>		
<b>Item</b>	<b>Total Approved DA 062/2018</b>	<b>Proposed Modifications</b>
<b>Site Area</b>	3,906m <sup>2</sup>	4,117m <sup>2</sup> (New Survey)
<b>Total Gross Floor Area</b>	Warehouse – 943m <sup>2</sup> Retail – 383m <sup>2</sup> Office – 168m <sup>2</sup> Battery Room – 15m <sup>2</sup> Building Ancillaries – 55m <sup>2</sup> Total Gross Floor Area – 1,564m <sup>2</sup>	Warehouse – 975m <sup>2</sup> Retail – 304m <sup>2</sup> Office – 88m <sup>2</sup> Battery Room – 20m <sup>2</sup> Building Ancillaries – 54m <sup>2</sup> Total Gross Floor Area – 1,441m <sup>2</sup>  A total GFA reduction of <b>122m<sup>2</sup></b> is proposed under this modification.
<b>Floor Space Ratio</b>	0.40:1	0.35:1
<b>Building Height</b>	8.4m	8.5m
<b>Number of Storeys</b>	2 Storeys	2 Storeys

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

<b>Number of Units</b>	Five (5) warehouses and three (3) retail units.	Three (3) warehouses and one (1) retail unit (connected with Warehouse 1)
<b>Landscaping</b>	155m <sup>2</sup>	135m <sup>2</sup> (Reduction due to new survey however, no material change to overall landscaped area associated with approved development)
<b>Car Parking</b>	33 Spaces	24 Spaces
<b>Signage</b>	One (1) x Pylon sign	One (1) Pylon sign
<b>Cost of Works</b>	\$2,314,594	\$2,156,009

The proposed modification as summaries above are illustrated in the modified drawings in **Appendix 3**.

### 3.3 PROPOSED CONDITIONS OF CONSENT

In order to facilitate the development, the Section 4.55(2) Modifications Application seeks to amend the following conditions of **DA-57297/2019**. Text proposed to be deleted has been indicated by a ~~strikethrough~~ and text proposed to be added has been indicated in **red**.

#### 3.3.1 Approved Plans and Supporting Documents

Implement the development substantially in accordance with the plans and supporting documents listed below as submitted by the applicant and to which is affixed a Council stamp "*Development Consent*" unless modified by any following condition.

#### Architectural Plans by: Full Tilt Constructions Pty Ltd

Drawing	Description	Sheets	Issue	Date
<del>0.00</del>	<del>Cover &amp; Drawing Register</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>0.00</b>	<b>Cover &amp; Drawing Register</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>
<del>0.01</del>	<del>Perspectives</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>0.01</b>	<b>Perspectives</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>
<del>0.10</del>	<del>Master Site Plan and Site analysis</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>0.10</b>	<b>Master Site Plan and Site analysis</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>
<del>0.11</del>	<del>Shadow Diagrams</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>0.11</b>	<b>Shadow Diagrams</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>
<del>1.00</del>	<del>Site Plan</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>1.00</b>	<b>Site Plan</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>
<del>2.00</del>	<del>Ground Floor and First Floor Plan</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>2.00</b>	<b>Ground Floor and First Floor Plan</b>	<b>1</b>	<b>A</b>	<b>15/06/2020</b>
<del>3.00</del>	<del>Roof Plan</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>3.00</b>	<b>Roof Plan</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>
<del>4.00</del>	<del>Elevations</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>4.00</b>	<b>Elevations</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>
<del>5.00</del>	<del>Section</del>	<del>±</del>	<del>A</del>	<del>30/08/2019</del>
<b>5.00</b>	<b>Section</b>	<b>1</b>	<b>B</b>	<b>15/06/2020</b>

Title	Prepared by	Date
<del>Bushfire Assessment Report</del>	<del>Peterson Bushfire</del>	<del>02/08/2019</del>
<b>Bushfire Assessment Report</b>	<b>Peterson Bushfire</b>	<b>27 August 2020</b>
Statement of Environmental Effects	Willowtree Planning	20/09/2019

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

<del>National Construction Code Report</del>	<del>NW Building Certification</del>	<del>27/08/2019</del>
National Construction Code Report	Certis	26/08/2020
<del>Waste Management Plan</del>	<del>Full Tilt Constructions</del>	<del>07/08/2019</del>
Waste Management Plan	Full Tilt Constructions	17/08/2020
Ecological Report	Ecological Survey and Planning	June 2019
<del>Landscape Plan</del>	<del>Manco Designs P/L</del>	<del>29/08/2019</del>
Landscape Plan	Manco Designs P/L	25 August 2020
<del>Traffic Impact Assessment</del>	<del>Traffix</del>	<del>September 2019</del>
Traffic Impact Assessment	Traffix	24 August 2020
Acid Sulphate Assessment	Valley Civillab	08/08/2019
Preliminary Site Investigation	Valley Civillab	06/08/2019
<del>Flood Impact Report</del>	<del>WMA Water</del>	<del>29/07/2019</del>
Flood Impact Report	WMA Water	10 August 2020
<del>Water Cycle Management Report</del>	<del>Sparks + Partners</del>	<del>02/09/2019</del>
Water Cycle Management Report	Sparks + Partners	10 August 2020
<del>Survey Plan</del>	<del>Chase Burke Harvey</del>	<del>04/03/2019</del>
Survey Plan	Bee & Lethbridge	19/03/2020

## **PART D LEGISLATIVE AND POLICY FRAMEWORK**

This part of the statement assesses and responds to the legislative and policy requirements for the project in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act). The statutory planning framework relevant to the preparation of the modification application includes:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning Regulation 2000*
- *Water Management Act 2000*
- *Biodiversity Conservation Act 2016*
- *Environment Protection and Biodiversity Conservation Act 1999*
- *Rural Fires Act 1997*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Gosford Local Environmental Plan 2013*

### **4.1 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

The EP&A Act is the principal planning and development legislation in New South Wales. Pursuant to Part 4, the proposal is local development.

The modifications sought to the development consent **DA-57297/2019** have been considered against the provisions of Section 4.55 (2) of the EP&A Act. The provisions of Clause 4.55 of the EP&A Act as outlined in **Table 3** below.

<b>Table 3. Section 4.55 of the EP&amp;A Act</b>	
<b>Clause</b>	<b>Response</b>
<i>(2) <b>Other modifications</b> 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—</i>	
<i>(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	<p>Given the nature and extent of the changes proposed, the modifications sought would have no undue environmental impacts. Overall, there is no intensification resulting from the proposed modifications, with the modification limited to improving the configuration and operational efficiency of the Site and not increasing the GFA of the development.</p> <p><b>Part E</b> of this statement considers the proposed modification’s impacts on the immediate and surrounding environments.</p> <p>In light of the nature of the proposed modifications and absence of any measurable environmental impacts, the proposal is substantially the same as that originally approved. This is further addressed below.</p>
<i>(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the</i>	<p>Given the nature of the proposed modifications and development as approved, it is understood that such consultation would not be warranted in this circumstance.</p>

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

<i>approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</i>	
<i>(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</i>	The application upon submission shall be notified for 14 days in accordance with the <i>Gosford Development Control Plan 2013</i> .
<i>(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	It is acknowledged that Council must consider any submissions that are received concerning the proposed modification.
<i>(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.</i>	The proposed modifications are consistent with the matters referred to in Section 4.15(1) of the EP&A Act and the reasons for the grant of consent have been considered as part of the proposed modifications. This is further described in the section below.

### **Section 4.55 (2)(a) – Substantially the same**

The scope of a maximum modification of a consent without constituting assessment as a standalone application can be analysed through the ambit of *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*, whereupon Commissioner Mason P. found in relation to modification of development consents that the word “modify” was given the ordinary meaning of “to alter without radical transformation”. Therefore, the extent to which a consent may be modified is that to which the consent, as modified, is as approved without radical transformation or alteration.

The development, as modified, is substantially the same development and will not result in a radical transformation of **DA-57297/2019** for the following reasons:

- The modification remains a warehouse and retail development which retains the approved primary land use and proposes no substantial change to this fundamental element of the approval.
- Although it is acknowledged some minor quantitative changes are proposed, there are no substantial quantitative changes proposed to the approved building bulk or scale, including changes to the height and GFA, of the building.
- Overall, the GFA would be reduced at the Site which would be more beneficial to the Site layout given its context. The reduction is a direct result of an improved design outcome which now proposes a combined facility rather than a detached design. This would create ease for customer access and internal operations.
- The internal reconfigurations to the building consist of the proposed warehouses / retail areas to be combined to one building with internal areas being separated; this is proposed as it would be more affective to the operations of the Site and for its end-user. Although the design may be slightly different than what was approved under **DA-5797/2019** it is not considered a radical transformation as the intent of the development remains the same and the overall reduction of GFA at the Site would result in a reduction of the overall built form at the Site.

## **Section 4.55(2) Modification Application**

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

- The function, form, operations, business logistics, and importantly, public perception of the Site, as as a warehouse and retail development use, remains largely unchanged, with the proposed modifications retaining the original intent of the development as approved.
- All modifications proposed have been well thought and designed minimise the visual impact of the proposed (as modified) when viewed from the public domain.

In light of the above, the proposal as amended, is not considered to result in a “radical transformation” of the consent, as currently approved, satisfying the radical transformation test pursuant to *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*.

Whilst the proposal seeks to modify the original approved plans under **DA-57297/2019**, they are not considered to be material or essential elements of the approved development which would constitute a radical change to the ultimate development outcome of the Site. This is further analysed in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* which applies a quantitative and qualitative test to determine what qualifies a development as being “substantially the same”.

*Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* provides that a comparison of the development as approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development. The comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).

Whilst it is acknowledged that the proposal does include some quantitative changes to the approved development, these are not considered to be substantial or comprise a critical element of the development. Further, from a qualitative perspective, the development retains its identity as a warehouse and retail development. The modifications have been designed to avoid any additional visual impact on the bulk and scale of the building. Although the development as modified comprises a ‘joined’ appearance rather than separate units, the overall intensification of the Site (both in appearance and use) would be reduced, as the reconfigured layout would result in a more streamline visual from the public domain. Accordingly, quantitatively and qualitatively, the proposed development as modified would remain essentially and materially the same as the approved development.

Therefore, the proposal, as amended, will be substantially the same development as approved, and satisfies the requirements for the application to be assessed and approved pursuant to Section 4.55(2)(a) of the EP&A Act.

## **Section 4.55(3) - Reasons given by the consent authority for the grant of the consent**

Pursuant to **DA-57294/2019** the consent authority has provided a list of reasons for the approved development. Below is a summary of the main reasons and how the proposed modifications would not compromise (in red) Council’s reasons for approval:

### **Flood Planning**

A report prepared by WMA Water dated 26 July 2019 was submitted with the application to address the impact of the development on the flood levels on neighbouring properties, in particular related to the proposal to relocate the drainage pipeline and easement from within the south-western boundary of the site to the north-eastern boundary of the site, and incorporate a stormwater secondary flow path under the building within the south-western side of the lot. The report is based on the parameters associated with the Erina Creek Flood Study which was utilised as the basis for the analysis. The results indicate that the development would not result in an increase to flood levels on neighbouring properties.

The modified design results in the retention of the existing location of the stormwater pipe along the western boundary. The relocation is not considered necessary for the new design as the new reconfiguration of the built form and increased setbacks no longer sits above the easement, It is also

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

confirmed within the report prepared by WMA Water (**Appendix 6**) that this design would not result in an increase in flood levels on the neighbouring properties. Therefore, the proposal as modified would not compromise Councils previous reasons for approval.

### Main Road Character

The proposed development would remain a mixed use centre that provides a range of services to the surrounding district. The proposal would enhance the civic presentation, have a large front setback with predominantly indigenous trees and promote high levels of visible retail type activities along the main road.

Although the reconfigured design results in combined warehouse and retail units the overall intent of the Site remains the same where a mixed use design and aesthetically pleasing presentation from the Erina Road would be retained ensuring a positive visual to the civic centre. Further, no changes to the landscaped setback would arise and indigenous trees would be retained.

### Scenic Quality

The proposed development does not unreasonably contribute to the loss of characteristics of the natural or built environment, nor does it unreasonably dominate the local area.

The slight reconfiguration in building design along with external alterations would not contribute to any scenic loss in relation to the natural and built environment. The overall GFA proposed at the Site would be reduced by 122m<sup>2</sup>, this would result in developing a positive visual and development outcome for the Site and its surrounding natural environment.

### Building Setback

The proposed building is built to the boundary on the western side and is setback 3.4m from the common boundary with No.199 The Entrance Road. This is due to the relocation of the existing drainage pipe and easement along the western boundary being relocated to the eastern side so that there is a common driveways easement between the proposed building on this site and No. 199 The Entrance Road. There are no objections to the proposed western side setback as it is not out of character with existing and future development in this area and permits improved drainage system from the Entrance Road to Erina Creek.

The modified civil design aims to retain the existing location of the stormwater pipe on the western boundary of 197 The Entrance Road, Erina. Due to the Site reconfiguration the proposed development has been shifted from the side setback of the western boundary to ensure no built form would occur over the drainage easement. As a result, the relocation of the stormwater pipe is now not necessary. The proposed design is supported within the Civil Report and Drawings prepared by Sparks and Partners (**Appendix 4 and 5**) which confirms that the design which is to be retained (as existing) would not impose on any flood measures or run off. The adjoining development (199 The Entrance Road, Erina subject to a modification of **DA-57297/2019**) would also benefit from the retention of this stormwater pipe and has been designed so appropriate flow would be correctly directed to the drainage line and into Erina Creek.

Section 4.15(1) of the EP&A Act specifies the matter which a consent authority must consider when determining a Modification Application. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **Table 4** below.

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

**Table 4. Section 4.15(A) Considerations**

Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	Refer to <b>Section 4.2-4.8</b> of this statement
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	Refer to <b>Section 4.2</b> of this statement.
Section 4.15(1)(a)(iii) any development control plan, and	Refer to <b>Section 4.12</b> of this statement.
Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	There are no voluntary planning agreement that apply to the proposal or Site.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Refer to <b>Section 4.2</b> of this statement.
Section 4.15(1)(b)-(c)	Refer to <b>Part E</b> .

### 4.2 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

This application has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). Clause 115 of the EP&A Regulation stipulates how a modification application must be "made". This DA satisfies the relevant criteria of the Regulation as follows:

- Clause 115 – Pursuant to Clause 115 of the EP&A Regulation all appropriate documentation has been submitted as a part of this modification application.

Further, the proposed modification does not trigger 'Designated Development' pursuant Schedule 3 of the EP&A Regulation.

### 4.3 WATER MANAGEMENT ACT 2000

The Water Management Act 2000 (WM Act) aims to uphold the sustainable and integrated management of the state's water for the benefit of both present and future generations.

The proposed development is located approximately 6m to Erina Creek. Given the Site's proximity to a natural water source, consideration is warranted under Clause 91 of the WM Act. Clause 91 of the WM Act, prescribes the following:

#### **Clause 91 Activity approvals**

- (1) There are two kinds of activity approvals, namely, **controlled activity approvals** and **aquifer interference approvals**.
- (2) A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land.

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

(3) *An aquifer interference approval confers a right on its holder to carry out one or more specified aquifer interference activities at a specified location, or in a specified area, in the course of carrying out specified activities.*

**Note.** *Examples of where an aquifer interference approval may be needed include mining operations, road construction and any other large scale activity that involves excavation.*

In accordance with Clause 91 of the WM Act, a controlled activity approval may be required if the proposed works are within 40m of a watercourse. However, the development shall remain within a similar distance as previously approved under **DA-57297/2019**. However, as confirmed by Natural Resources Access Regulator (**Appendix 13**) approval for the amendments may be requested by Council. Given the nature of the works it is not anticipated further amendment / referral would be warranted in this instance.

### 4.4 BIODIVERSITY CONSERVATION ACT 2016

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

The modified development is located in the vicinity of biodiversity values known as the 'Barinya Lane Bushland', located on the Springfield side of Erina Creek and a clustering of Biodiversity Values on 197 The Entrance Road. Consideration of these matters had previously undertaken been undertaken Preliminary Ecological Assessment approved under **DA-57297/2019**. As such, no further consideration is required.

### 4.5 ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

The *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides a framework for protection of the Australian environment and its biodiversity. The EPBC Act aims to protect and promotes the recovery of threatened species and ecological communities.

The Preliminary Ecological Assessment previously submitted as a part of **DA-57297/2019** shall remain applicable to the modified development. Due to the nature of the proposed modifications, no further consideration is required.

### 4.6 RURAL FIRES ACT 1997

The Site is identified within a designated bushfire prone area pursuant to the NSW Rural Fire Service (RFS) maps. A Bushfire Assessment Statement has been prepared by Peterson Bushfire which accompanies this Modification Application as **Appendix 8**. As illustrated in **Figure 4** the Site is predominantly subject to Vegetation Buffer with a minor portion at the rear of the Site (closest to Erina Creek) being subject to Vegetation Category 1.

Part 4 Division 8 of the Rural Fires Act 1997 (Rural Fires Act) relates to development of bushfire prone land and Section 100B identifies development for which a Bush Fire Safety Authority is required. Bushfire Safety Authority is required for:

- (a) *a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or*
- (b) *development of bush fire prone land for a special fire protection purpose.*

The development has been approved as a **warehouse and retail units** under **DA-57297/2019** which does not constitute a Special Fire Protection Purpose. Accordingly, a Bushfire Safety Authority is not required for further assessment under Section 100B of the Rural Fires Act and the development does not constitute Integrated Development under Section 4.46 of the EP&A Act.

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

The modification has also been considered against the provisions of the *Planning for Bushfire Protection 2006* (PBP). As stated within *Section 4.3.6.f* of PBP, the National Construction Code (NCC) does not provide for any bushfire specific performance requirements for the development type proposed. Therefore, the Asset Protection Zone and building construction requirements do not apply as deemed-to-satisfy provisions for bushfire protection.

A Statement prepared by Peterson Bushfire confirms that the proposed development can occur on the subject land with compliant bushfire protection measures. In summary, the following recommendations have been made:

- The proposed landscaped is to achieve the principles listed in Appendix 4 of PBP.
- The development will require fire hydrants to be installed to achieve compliance with the Australian Standards,
- Any gas services are to be installed and maintain in accordance with the Australian Standards.

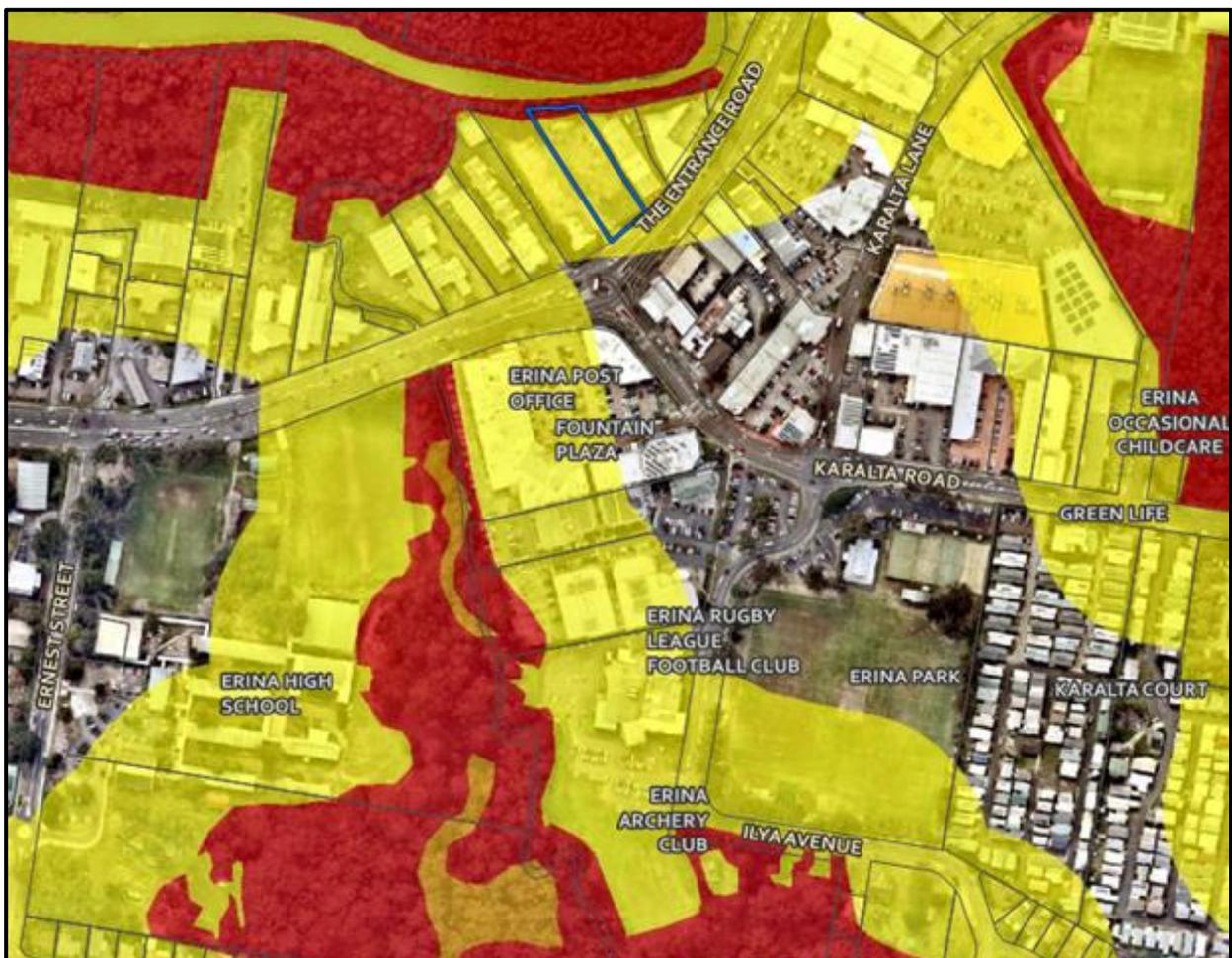


Figure 4. Bushfire Prone Land (Source: Peterson Bushfire, 2019)

## 4.7 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

*State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure) repeals the former *State Environmental Planning Policy No. 11 – Traffic Generating Development* and provides for certain proposals, known as Traffic Generating Development, to be referred to NSW Roads and Maritime Services (RMS) (formally the Roads and Traffic Authority) for concurrence.

Under Clause 104 of SEPP Infrastructure, referral may be required for 'Traffic Generating Development' Schedule 3 lists the types of development that are defined as 'Traffic Generating Development'.

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

The referral thresholds for Industry are:

- 20,000m<sup>2</sup> in gross floor area; or
- 5,000m<sup>2</sup> in gross floor area – site with access to classified road or to a road that connects to a classified road (if access within 90m of connection, measured along alignment of connecting road)

Referral for the previously approved development under **DA-57297/2019** was not required as the Gross Floor Area (GFA) remained below the threshold. This is to remain consistent in line with the modifications therefore further consideration of the SEPP Infrastructure is not warranted in this instance.

### 4.8 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT)

The *State Environmental Planning Policy (Coastal Management) 2018* (Coastal Management SEPP) promotes an integrated and coordinated approach to land use planning. The coastal management mapping defines the four coastal management areas of the *Coastal Management Act 2016* and specifies which in turn assessment criteria to be applied by consent authorities when assessing proposals for development within these mapped areas.

The northern portion of the Site is identified as being located in '**Proximity Area for Coastal Wetlands**' (**Figure 5**) under the State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP).



**Figure 5. Proximity Area for Coastal Wetlands (Coastal Managements SEPP Maps, 2020)**

Pursuant to Division 1, Subclause 11(1) the following must be considered:

1. *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
  - a) *The biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

- b) *the quantity of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

The proposed physical works located within the land identified as 'Proximity Area for Coastal Wetlands' constitute a modification to the approved warehouse and retail units (**DA-57297/2019**).

The proposed works will be controlled as outlined in the civil design plans (**Appendix 4**) where relevant sedimentation and erosion controls have been proposed to be implemented. The works are therefore not considered to adversely affect the biophysical, hydrological or ecological integrity of the adjacent wetland.

In light of the above the proposed works are considered to satisfy Subclause 11 of the Coastal Management SEPP.

## 4.9 GOSFORD LOCAL ENVIRONMENTAL PLAN 2014

The *Gosford Local Environmental Plan 2014* (GLEP2014) is the primary environmental planning instrument that applies to the Site.

The relevant provisions of GLEP2014 as they relate to the Site are considered below:

### 4.9.1 Zoning and Permissibility

Pursuant to the GLEP2014, the Site is zoned B5 Business Development (**Figure 6**). Accordingly, the following objectives apply:

- *To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*
- *To ensure that development is compatible with the desired future character of the zone.*
- *To provide and protect land for employment-generating activities.*
- *To encourage the location of business and other premises requiring large floor plates in appropriate locations to ensure they do not sterilise commercial or residential areas.*
- *To recognise the importance of business lands at Erina and locations supporting Gosford City Centre at West Gosford and Wyoming.*
- *To recognise small isolated business and commercial areas located throughout Gosford.*
- *To recognise the range of service activities located in business areas that support business development.*
- *To ensure that business areas are not sterilised by residential development.*

The proposed modification does not result in any of the objectives of the zone being compromised. The development will continue to be capable of achieving these objectives to the same capacity as approved under **DA-57297/2019**.

The following uses are permissible without consent:

*Nil.*

The following uses are permitted with consent:

*Centre-based child care facilities; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Landscaping material supplies; Light industries; Oyster aquaculture; Passenger transport facilities; Respite day care centres; Roads; **Specialised retail premises**; Tank-based aquaculture; **Warehouse or distribution centres**; Any other development not specified in item 2 or 4*

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

The following uses are prohibited:

*Agriculture; Air transport facilities; Amusement centres; Biosolids treatment facilities; Boat building and repair facilities; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Educational establishments; Electricity generating works; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Hospitals; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Pond-based aquaculture Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; Rural industries; Rural supplies; Sewage treatment plants; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems*

Under the GLEP2014, the approved use subject to **DA-57297/2019** comprises a **specialised retail premises** and **warehouse and distribution centre** which are permissible with consent within the B5 zone and is defined as follows:

A **specialised retail premises** is defined as the following:

**specialised retail premises** means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires:

- a) a large area for handling, display or storage, or
- b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.

### **Note.**

*Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.*

A **warehouse and distribution centre** are defined as follows:

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

**Section 4.55(2) Modification Application**

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

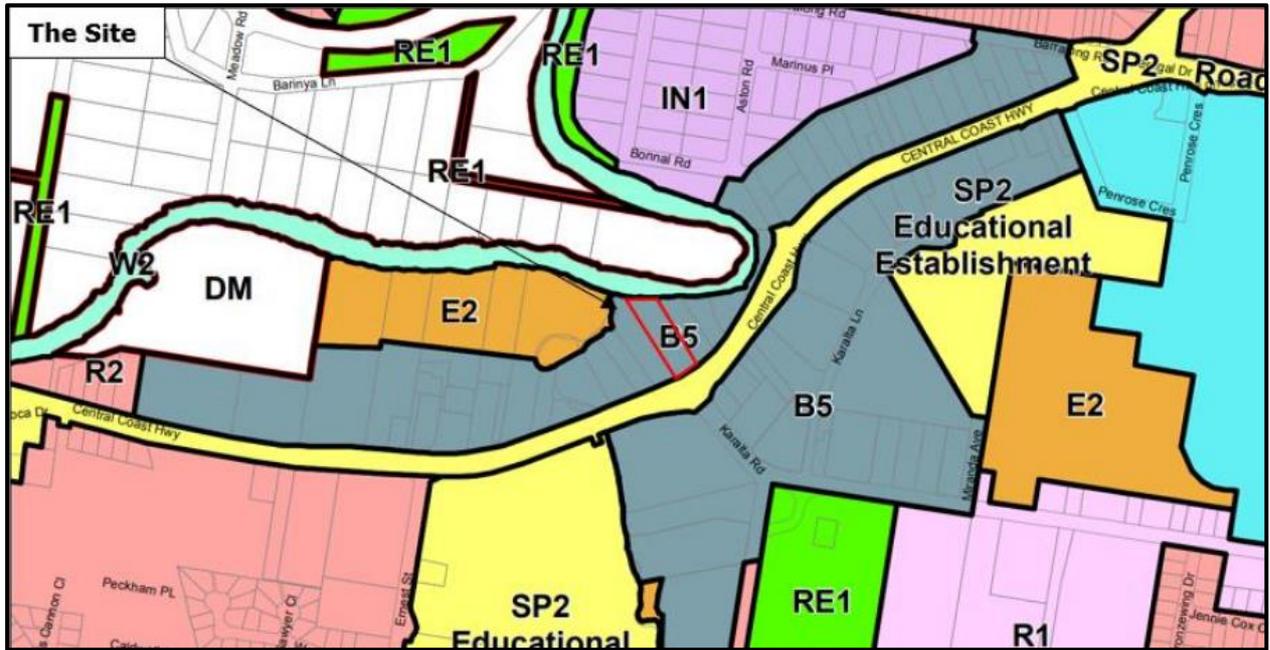


Figure 6. GLEP2013 Land Zoning Map (NSW Legislation, 2020)

Table 5 outlines the developments consistency and compliance with the relevant standards and controls under the GLEP2014.

Table 5. GLEP2014 Development Standards	
Clause	Comment
<b>Clause 4.1 – Minimum Lot Size</b>	The Site is not subject to a minimum lot size under the GLEP2014.
<b>Clause 4.3 – Height of Buildings</b>	The Site is subject to a maximum building height of <b>14.25m</b> . The building height is as approved under <b>DA-57297/2019</b> is <b>8.5m</b> and shall remain unchanged subject to this modification.  The proposal will continue to satisfy the objectives of both the B5 zone and Clause 4.3
<b>Clause 4.4 – Floor Space Ratio</b>	The Site is subject to an FSR of <b>1.3:1</b> . The FSR approved under <b>DA-57297/2019</b> was <b>0.40:1</b> the proposed modification shall result in an FSR of <b>0.35:1</b> .  The approved GFA subject to <b>DA-57297/2019</b> was <b>1,564m<sup>2</sup></b> . The development as modified would result in an overall reduction of <b>122m<sup>2</sup></b> with a modified GFA of <b>1,441m<sup>2</sup></b> .  The proposal will continue to satisfy the objectives of Clause 4.4.
<b>Clause 4.6 – Exceptions to Development Standards</b>	The proposed development does not propose any variations to the development standards applicable to the Site.

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

<b>Clause 5.10 – Heritage</b>	<p>The Site is <u>not</u> identified as being located in any of the following:</p> <ul style="list-style-type: none"><li>▪ Heritage Conservation Area</li><li>▪ A Heritage items (Indigenous or Historic (European))</li><li>▪ Draft heritage items</li><li>▪ Located in proximity of any heritage items</li></ul>
<b>Clause 5.11 – Bush fire hazard reduction</b>	<p>Pursuant to the Bush Fire Prone Land Map (<b>Figure 3</b>), the Site is illustrated as being predominantly subject to Vegetation Buffer with a minor portion at the rear of the Site (closest to Erina Creek) being subject to Vegetation Category 1.</p> <p>The purpose of the development, being for a specialise retail premises and warehouse and distribution centre does not constitute a Special Fire Protection Purpose. Accordingly, a Bushfire Safety Authority is not required under Section 100B of the Rural Fires Act and the development does not constitute Integrated Development under Section 4.46 of the EP&amp;A Act.</p> <p>A statement prepared by Peterson Bushfire (<b>Appendix 8</b>) confirms that the proposal can occur on the subject land with complaint bushfire protection measures.</p>
<b>Clause 7.1 – Acid Sulfate Soils</b>	<p>Pursuant to the GLEP2014 the Site is identified as being subject to Class 2 and 3 Acid Sulfate Soils.</p> <p>Due to the expected high levels of Acid Sulfate Soils outlined by the GLEP2014 pursuant to Clause 7.1 (3):</p> <p><i>Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</i></p> <p>The proposal (as modified) shall remain consistent with the recommendations as previously approved under <b>DA-57297/2019</b> and the Acid Sulphate Soils Assessment undertaken by Valley Civil Lab.</p>
<b>Clause 7.2 – Flood Planning</b>	<p>The objectives of <b>Clause 7.2</b> are as outlined below:</p> <ul style="list-style-type: none"><li>a) to minimise the flood risk to life and property associated with the use of land,</li><li>b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</li><li>c) to avoid significant adverse impacts on flood behaviour and the environment.</li></ul> <p>The Site is subject to the 1% AEP flood event, as such relevant planning measures have been undertaken to ensure the Site is suitably developed.</p> <p>The Flood Impact Report accompanying as <b>Appendix 6</b> confirms the objectives of Clause 7.2 will be satisfied under</p>

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

	the proposed (as modified). The findings are further addressed in <b>Section 5.6</b> of this SEE where relevant civil design and reports have been outlined.
--	--

### 4.10 DRAFT CENTRAL COAST LOCAL ENVIRONMENTAL PLAN 2018

On 28 February 2019 the Central Coast Council exhibited the consolidation of all Planning Instruments. This involved a review of all Local Environmental Plans and Development Control Plans for the former Gosford City Council and the former Wyong Shire Council.

The intent of the consolidation of all planning instruments was not to introduce new planning controls but rather focus on identifying and applying within the consolidated documents the most suitable of existing planning controls from the existing instruments and plans.

Given the above, further consideration of the Draft LEP is not considered to be warranted until the Plan has been fully adopted.

### 4.11 NON-STATUTORY PLANNING FRAMEWORK OVERVIEW

The following non-statutory development control and strategic plans apply to the Site and proposed development.

- *Gosford Development Control Plan 2014*
- *Central Coast Regional Plan 2036*

### 4.12 GOSFORD DEVELOPMENT CONTROL PLAN 2013

The *Gosford Development Control Plan* (GDCP2013) supplements and provides more detailed provisions to guide the development that requires Council approval. An assessment against the relevant controls of the GDCP2013 have been carried out and presented in **Appendix 12**.

### 4.13 CENTRAL COAST REGIONAL PLAN 2036

The *Central Coast Regional Plan 2036* (The Plan) is a 20-year blueprint for the future of the Central Coast, providing an overarching framework that aims to facilitate a strong economy capable of generating jobs, provide greater housing choice, essential infrastructure, lively centres for shopping, entertainment and dining, and protecting the natural environment. The Plan guides the preparation of detailed land use plans, the determination of development proposals and informs infrastructure funding decisions for the Central Coast region. Ultimately, the Plan provides strategic direction for the Central Coast region together with the *Central Coast Regional Transport Plan 2014* and the *State Infrastructure Strategy 2018-2038* to align land use, transport and infrastructure outcomes for the Central Coast region.

The Site is located in the strategic centre of Erina, which falls within the boundaries of the *Central Coast Regional Plan 2036*.

The Plan underpins four (4) 'goals' and twenty-three (23) subsequent 'directions' for the Central Coast region which broadly aim to enhance the Central Coast as a prosperous area with strong employment opportunities, ensure the protection of the natural environment, promote attractive lifestyles and provide diverse housing.

The proposed modification will contribute to the four goals for the Central Coast, as outlined below:

- The proposed development supports new and expanded commercial use, as dispensed by **Direction 5**;

#### **Section 4.55(2) Modification Application**

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

- The proposed modification will be contextually suitable as a commercial development, thereby supporting priority economic sectors, as dispensed by **Direction 3**;
- The modified warehouse and retail units would provide approximately **7** jobs, as dispensed in **Section 3.3** of this Report, thereby contributing to the objectives of **Direction 7**;
- The modified warehouse and retail units are both permissible in the B5 Business Development zone and are located within the vicinity of other similar industrial land uses. As such, compliance with **Direction 17** is achieved;
- No consent is sought for the storage or handling of goods that could degrade the environment or for activity that would damage the adjoining Erina Creek. As such, compliance is achieved with **Direction 13** and **14**.

In summary, the proposed modification would continue to contribute to the objectives set out in the *Central Coast Regional Plan 2036* by promoting employment generating development and improved infrastructure whilst supporting an economically and environmentally sustainable outcome.

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

## PART E LIKELY IMPACTS OF THE DEVELOPMENT

Pursuant to Section 4.15 of the EP&A Act, the following matters have been addressed.

### 5.1 CONTEXT AND SETTING

The proposed modification retains the primary and critical elements of the approved development as a warehouse and specialised retail premises which is permitted with consent in, and achieves the objectives of, the B5 Zone.

The modification sought under this application will continue to remain consistent and compatible with the surrounding commercial land, including retail premises and warehouses alike, that are designated for such employment-generating land uses of similar and parallel nature. Accordingly, the Site would not adversely impact the adjoining sensitive land uses located to the north. therefore, the Site (including the proposed modifications) would not exhibit any adverse environmental or amenity impacts.

The Site layout and building design would continue to ensure the functional operation of the specialised retail premises and warehouses uses, as previously approved under **DA-57297/2019** in accordance with the operational needs of the end user involved, whilst no impact on any other surrounding operations.

Overall, the proposed modifications are considered to be substantially the same as the development previously approved under **DA-57298/2019** and will remain sympathetic to the existing design of the development and surrounding context, resulting in no measurable adverse impacts to the existing streetscape.

### 6.2 DESIGN AND APPEARANCE

The proposed modification in relation to **DA-57297/2019**, concerning the specialised retail premises and warehouses' would continue to be complemented by a high quality design and construction in order to positively reflect and contribute to the aesthetically pleasing characteristics set out in the aims and objectives of the GLEP2014 with regard to the Gosford LGA.

The proposed modification includes the reconfiguration of the building envelopes resulting in one (1) combined built form. Notwithstanding the design outcome would not result in an intensification of use across the site and more appropriately respond to the needs of the end-user involved, whilst no impact on any other surrounding land use and operations.

Although the proposed modifications would result in modifications to the built form, the proposal (as modified) would display an appropriate scale and appearance that is considered to reflect the desired outcomes approved under **DA-57297/2019**, as well as the built-form of surrounding commercial Sites within the Gosford LGA and would reinforce the commercial character of the area furthermore.

### 6.3 TRAFFIC AND TRANSPORT

The Traffic Impact Assessment (TIA) (**Appendix 7**) prepared by Traffix considers the relevant traffic, transport and parking implications of the proposed development (as modified). The TIA has considered key planning documents and traffic and parking guidelines including:

- *GDCP2013;*
- *Roads and Maritime Services, Guide to Traffic Generating Developments (RMS Guide);*
- *Roads and Maritime Services, Technical Direction – TDT 2013/04a, August 2013;*
- *Australian Standard 2890.1: Parking Facilities – Off Street Car Parking (AS 2890.1); and*
- *Australian Standard 2890.2: Parking Facilities – Off Street commercial vehicle facilities (AS 2890.2).*

## **Section 4.55(2) Modification Application**

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

### **Parking**

The proposed modification includes a reconfiguration of the parking layout. Pursuant to Part 7.1.3 of the GDCP2013, the proposed development is required to provide **16 car parking spaces**. The Site was previously approved under **DA-57297/2019** for **33 car parking spaces** however, due to the modification nine (9) car parking spaces have been lost. Resulting in **24 car parking spaces** subject to the proposed modification. Notwithstanding the reduction is still consistent and compliant with the minimum required car parking spaces subject to the GDCP2013.

### **Vehicular Access**

The proposed modification has resulted in a reconfiguration of the parking layout as approved under **DA-57297/2019**, however, the driveway crossover has been maintained as previously approved. Revised swept path analysis has been provided in **Appendix 7** which demonstrates that Heavy Rigid Vehicle (HRV) can continue to satisfactorily ingress and egress from the Site.

### **Traffic Impacts**

The proposed modification seeks a minor increase to warehouse space and a slight reduction in retail space as such, the revised development scheme and traffic generation is expected to be less than the approved development. No further traffic generation would need to be considered for the proposed works.

In light of the above, and as demonstrated within the TIA the proposal (as modified) is considered consistent and compliant with the relevant Australian and BCA Standards and with the GDCP2014. As such, the proposed modification to **DA-57297/2019** is considered supportable.

## **6.4 STORMWATER AND FLOODING**

An updated Civil Design Plan, Flood Impact Report and Water Cycle Management Report have been prepared by Sparks and Partners and WMA Water and accompanies this modification application within **Appendix 5** and **6**.

**DA-57297/2019** previously included the relocation of the stormwater pipe as the proposed built form was located over the easement. However, due to the reconfiguration of the built form and increased setbacks, the built form no longer sits above the easement and therefore the relocation of the stormwater pipe is not deemed necessary.

The location of the existing drainage easement which runs along the western boundary of the property retained. This includes a 900mm diameter pipe running through the easement which will discharge stormwater from the street and upstream to catchments in Erina Creek.

As confirmed within the Flood Impact Assessment the proposed modifications including the retention of the stormwater pipe will have no adverse impact on the 1% AEP flood level outside the property and the proposed Civil Design shall remain consistent with the relevant measures as implemented by the GDCP2014.

## **6.5 WASTE**

Details of construction waste and operation waste are provided within the Waste Management Plan at **Appendix 10**. Waste will be recycled either on-site through reuse or offsite at a licenced facility. Waste will be transported and disposed of off-site by a licenced landfill facility.

## **6.6 FLORA AND FAUNA**

The Preliminary Ecological Assessment previously submitted and approved under **DA-57297/2019** shall remain consistent with the proposed modifications. It is acknowledged the surrounding biota will inherently be unaffected by the proposal.

## **6.7 BUSHFIRE AND HAZARD REDUCTION**

A Bushfire Statement prepared by Peterson Bushfire has been provided at **Appendix 8**. This statement confirms that the proposed modifications would remain consistent with all bushfire measures previously implemented under **DA-57297/2019** and would not require further assessment.

## **6.8 CONSTRUCTION**

All works on Site shall be carried out in accordance with the conditional requirements as outlined within Development Consent **DA-57297/2019**.

## **6.9 NATIONAL CONSTRUCTION CODE**

A BCA Report has been provided at **Appendix 9** previously approved which confirms the proposed modification is capable of complying with the relevant provisions of the BCA.

## **6.10 SUITABILITY OF THE SITE FOR DEVELOPMENT**

The Site is considered suitable for the proposed development as established by the previous approved of **DA-57298/2019**.

## **6.11 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 Council.

## **6.12 THE PUBLIC INTEREST**

The proposed development would have no adverse impact on the public interest. The modification has been designed in accordance with the Site characteristics and the surrounding locality. The future use and built form have also been designed to remain predominantly consistent as previously approved under **DA-57297/2019**.

The proposed modifications would improve the functionality and amenity of an approved specialised retail premises, with no adverse visual or amenity impacts for neighbouring properties or public domain.

## Section 4.55(2) Modification Application

Modification to approved Warehouse and Retail Units  
197 The Entrance Road, Erina

---

### PART F CONCLUSION

The purpose of this statement has been to present the proposed modifications to approved specialised retail premises and warehouse and distribution centre under **DA-57297/2019** at 197 The Entrance Road, Erina and to assess its potential impacts having regards to Section 4.55(2) of the EP&A Act

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

- The development history of the Site;
- Previously approved development;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.55(2) of the EP&A Act; and
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments.

As detailed throughout this statement and the supporting documentation, the proposed modification is minor in nature and shall deliver a development outcome which is consistent with the operations of the end user.

The proposed development is permissible within the zone and is compatible with the zone objectives. As stipulated previously in this Report, the matters for consideration under Section 4.15(1) of the EP&A Act have been satisfactorily addressed.

In light of the above, the modifications proposed **DA-57297/2019** are considered worthy of support by Central Coast Council.