

Wollongong Local Planning Panel Assessment Report | 18 December 2019

WLPP No.	Item No's 2 - 7
DA No.	DA-2019/951, DA-2019/1034, DA-2019/1054, DA-2019/1058, DA-2019/1177, DA-2019/1259
Proposal	As outlined below generally being for use of mezzanines, and changes of use
Property	8 Pioneer Road Woonona
Applicant	Various as outlined below
Responsible Team	City Centre Major Development City Centre (MJ)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposals have been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. The proposals are captured by Clause 3 of Schedule 2 of the Local Planning Panels Direction of 1 March 2018, as collectively they are development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Background

The lodgement of the applications was initiated following a complaint made to Council regarding the use of Unit 3 as a gym. Development consent is in place for 5 units and the applications the subject of this report seek approval for land uses and regularisation of existing mezzanines across 10 separate units. One unit (unit 10) does not have development consent for any specific use but is vacant and does not contain a mezzanine and is not the subject of this report.

This report assesses all applications so that the total functioning of the site can be considered holistically. Separate discussion on specific applications is assessed where relevant.

Proposal

The proposals are generally for the use of mezzanines, and changes of use. No change to the outside of the building is occurring as part of these applications.

Permissibility

The site is zoned IN2 Light Industrial pursuant to WLEP2009. The proposals are permissible with development consent.

Consultation

The proposals were notified in accordance with Council's Notification Policy and received one submission (objection) which is discussed at section 2.10 of the assessment report.

Main Issues

The main issues are:

- Floor space ratio

RECOMMENDATION

It is recommended that the applications be approved subject to conditions at Attachments 4 to 9

DA No.	DA-2019/951
Proposal	Mezzanine level and Change of Use to Warehouse and Distribution Centre
Property	Unit 9 - 8 Pioneer Drive, Woonona
Applicant	D & S Neaves Super Fund
DA No.	DA-2019/1034
Proposal	Mezzanine Level and Change of Use to Depot
Property	Unit 4 - 8 Pioneer Drive, Woonona
Applicant	RG Planning
DA No.	DA-2019/1054
Proposal	Mezzanine Level and Change of use to Warehouse and Distribution Centre
Property	Unit 6 - 8 Pioneer Drive, Woonona
Applicant	Plannex Environmental Planning
DA No.	DA-2019/1058
Proposal	Mezzanine levels and Change of use to Light Industry
Property	Unit, 7, Unit 11, Unit 12, Unit 13 and Unit 14 - 8 Pioneer Drive, Woonona
Applicant	Plannex Environmental Planning
DA No.	DA-2019/1177
Proposal	Mezzanine Level and Change of use to Recreation Facility (Indoor)
Property	Unit 3 - 8 Pioneer Drive, Woonona
Applicant	Ingenuity Home Design
DA No.	DA-2019/1259
Proposal	Mezzanine Level and Change of use to Depot
Property	Unit 15 - 8 Pioneer Drive, Woonona
Applicant	Mr Craig William Burrows, Mrs Catherine Ann Burrows, Mr Christopher Stuart and Mrs Nicole Stuart

PLANNING CONTROLS

The following planning controls apply to the developments

State Environmental Planning Policies

- SEPP No. 55 – Remediation of Land
- SEPP (Coastal Management) 2018
- SEPP (Infrastructure) 2007

Local Environmental Plans

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2018

DETAILED DESCRIPTION OF PROPOSAL

Six (6) development applications have been lodged seeking approval for land use and regularisation of existing mezzanine levels across 10 separate units located within an industrial warehouse complex located at 8 Pioneer Drive, Woonona.

Summary of applications:

- **Unit 9 - DA-2019/951- Mezzanine Level**

Application proposes change of use to Warehouse and Distribution Centre approval of a 95m² mezzanine level. Resulting in total GFA of 205m².

Ground floor used as “Factory Area”, “Reception / Office” and accessible toilet.

The hours of operation are Monday to Saturday: 0800 – 1800

Maximum of 2 staff on site.

Mezzanine level to be used as “Storage”.

- **Unit 4 - DA-2019/1034 – Mezzanine Level and Change of use to Depot**

Application proposes change of use to Depot and approval of 91m² mezzanine level. Resulting in total GFA of 206m².

The business ‘Camray Air Conditioning’ will use the unit for storage of materials. Employees visit the unit in staggered fashion throughout the day as per work schedule.

Ground floor used as “Air Conditioning Depot” with accessible toilet and kitchenette. Mezzanine area used a “Duct Storage Area”.

1 x permanent staff, Maximum 2 x staff on site at any one time, customers do not attend the site.

Hours of operation: 0700 – 1800, Monday – Saturday.

Waste servicing accommodated within unit. Deliveries expected to be up to 6 times per week.

Application is supported by BCA Report and Structural Engineering assessment.

- **Unit 6 - DA-2019/1054 – Mezzanine Level and Change of use to Warehouse and Distribution Centre**

Application proposes change of use to Warehouse and Distribution Centre and approval of 92m² mezzanine level. Resulting in total GFA of 207m² the floor plan includes 24m² of loading/unloading.

The business 'Prestige Yarns' operates as a wholesale distributor of handknitting yarn and accessories.

Ground floor used for "Storage", loading, waste, toilet and kitchenette. Mezzanine used for "Storage" "Office" and loading.

2 x full time staff and 4 x casual staff.

Hours of operation 0700 – 1730, Monday – Friday and 0700 – 1300 Saturdays.

Deliveries 3 – 4 per month, dispatches 2 – 3 times per week.

Application is supported by BCA Report and Structural Engineering assessment.

- **Unit, 7, Unit 11, Unit 12, Unit 13 and Unit 14 - DA-2019/1058 – Mezzanine levels and Change of use Light Industry**

Application proposes change of use of units 11, 12, 13, 14 (all adjoining) and unit 7 (separate) to light industry and approval of mezzanine levels in units 12 (95m²), 13 (53m²), 14 (100m²) and 7 (102m²). Resulting in total GFA of 1,011m², the floor plan includes 120m² of loading/unloading.

There is a ground floor opening between units 12 and 13.

The use of units 11, 12, 13, 14 and 7 are to be occupied by 'Architectural Hardwood Joinery P/L'. The use of the mezzanine of Unit 14 the subject of a future application.

Architectural Hardware Joinery is a specialist manufacturer of windows, doors and specialty timber products made from recycled Australian hardwoods. Deliveries received at unit 7 then transferred to units 11, 12 and 13 for processing. Window glazing is undertaken in unit 14.

3m³ deliveries per week and 1- 2 outward deliveries per week.

7 x full time staff.

Hours of operation 0700 – 1730, Monday – Friday.

Ground floor of units 11, 12, 14 and 7 to be used as storage, ground floor of unit 13 to be workshop. Mezzanine of unit 12 to be "Display Showroom", units 13 and 7 to be "Storage" and unit 14 to be "subject to a separate DA".

Application is supported by BCA Report and Structural Engineering assessment.

- **Unit 3 - DA-2019/1177 – Mezzanine Level and Change of use to Recreation Facility (Indoor)**

Application proposes change of use of to Recreation Facility (Indoor) and approval of 46.6m² mezzanine. The resultant total GFA 161.9m².

The business to operate within unit 3 is a personal training studio – 'National Strength Performance Centre'. The studio provides one on one personal training and small group sessions.

Ground floor to be used as "Gym". Mezzanine to be used as Storage.

The hours of operation are 0515-1100 Monday - Friday, 1600 - 2000 Monday - Thursday, 1600-1900 Friday and 0630 - 1030 Saturday.

Minimal servicing to be required, commercial waste contract which services complex to service unit.

Application is supported by BCA Report and Structural Engineering assessment.

- **Unit 15 - DA-2019/1259 – Mezzanine Level and Change of use to Depot**

Application proposes change of use to depot and approval of 111m² mezzanine level. Resultant total GFA is 225m². the floor plan includes 30m² of loading/unloading.

The business to operate within Unit 15 is a plumbing contracting depot.

Ground Floor to be used as “Factory Area”, “Office Area / Deliveries”. Mezzanine to be “Storage”, Kitchenette and bathroom.

Hours of operation 0700 – 1730 Monday – Friday and 0700 – 1300 Saturday.

Maximum 1 – 2 staff on site.

Application is supported by a Structural Engineering assessment.

1.3 BACKGROUND

The encompassing light industrial unit complex was originally approved under DA-2004/1593 entailing the construction of 16 “light industrial units” within two (2) detached buildings with 41 car spaces.

Condition 59 of the development consent issued for DA-2004/1593 required that separate development consent is required for the use of each individual unit.

DA-2004/1593 was modified on 17 March 2006 to delete condition 11 which related to construction requirements regarding rail noise.

Strata Subdivision

The complex was later strata subdivided into 16 lots under PC-2007/141 & 142 (No. 006/CDC04/07) with 2, 3 or 4 car spaces allocated to each lot and eight (8) communal visitor spaces.

The strata plan will need to be updated to reflect proposed current floor area allocations.

Consent for use

Development consent was subsequently issued for two (2) of 16 units;

- **Unit 16** - DA-2010/1289, To use unit for storage/sale (wholesale) and installation of LPG tank conversion kits to motor vehicles
- **Unit 8** - DA-2012/851, Use of industrial unit as distribution centre

Enforcement Action

Request Number: 594381 lodged 13 July 2018

A complaint was made to Council regarding the use of Unit 3 as a gym and use of the common driveway as training area.

Council’s Regulation and Enforcement Team investigated the matter. A search of Council records revealed that development consent was not in place for 14 of the 16 units. Enforcement action was undertaken, requiring unit owners to address this matter.

The first DA lodged (DA-2018/1067 – lodged 29 Aug), which included an unauthorised mezzanine, was approved with conditions related to structural soundness & BCA/NCC compliance. The additional GFA did not result in a breach of FSR standard for the entire site. At this point it was not known that there were several other unauthorised mezzanine levels.

Subsequent DAs were then lodged and it became apparent that there were several unauthorised mezzanines and FSR compliance was going to be an issue.

DAs which included mezzanines were rejected. Unit owners were advised to lodge modification to entire complex approval DA-2004/1593. Owners advised that they were unable to organise modification and have since lodged individual DAs.

Units not subject of this DA

Other units within the complex have either approved land use or approved land use and mezzanine;

- Unit 1: DA-2018/1122 land use (mezzanine approved under DA-2004/1593)
- Unit 2: DA-2018/1067 (mezzanine and land use approved)
- Unit 5: DA-2019/841 (mezzanine demolished and land use approved)
- Unit 8: DA-2010/1289 (land use) & DA-2018/1123 (land use)
- Unit 16: DA-2012/851 land use (mezzanine approved under DA-2004/1593)
- Unit 10: Council's Regulation and Enforcement team have investigated and confirmed no approved use or mezzanine.

1.4 SITE DESCRIPTION

The site is located at 8 Pioneer Drive, Woonona and the title reference is Lot 204 DP 776457 the strata title reference is SP 78814, the strata lots included in these applications are lots 9, 4, 6, 7, 11, 12, 13, 14, 3 and 15. The site has a frontage to Pioneer Drive and contains a strata subdivided multi-unit industrial development containing 16 individual tenancy spaces approved under DA-2004/1593 (DA-2004/1593/A). The site is located within an existing industrial precinct surrounded by residential areas of Bellambi and Woonona.

Pedestrian and vehicular access to the site is via Pioneer Drive.

It is noted a rail corridor (zoned SP2 Infrastructure) adjoins the site to the west and a riparian corridor is located to the north of the site.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Filled land, contaminated land, acid sulphate soils (Class 4 and 5). The development entails internal work and land use of existing units, no concerns are raised in this regard.
- Council records identify the land as being located within a low, medium and high flood risk precinct. The majority of the site is not flood affected, the hazard is limited to a portion of the northern boundary and western boundary areas, affecting each strata lot differently. Notwithstanding, the floor level is located above the flood planning level and the applications do not represent an increase to flood risk to life or property.
- Easement for railway purposes (variable width) runs along the western boundary. The developments do not propose any works or use within the easement area.

1.5 SUBMISSIONS

The applications were notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. This included a notice in The Advertiser and the units within the encompassing complex.

One (1) submission was received objecting to DA-2019/1058 – *Mezzanine levels and Change of use Light Industry (Unit, 7, Unit 11, Unit 12, Unit 13 and Unit 14)*. This objection was received from owner of Unit 2 (subject of mezzanine & land use approved under DA-2018/1067).

The issues identified are discussed below:

Concern	Comment
Large vehicles ("semi-trailers") dangerous and inappropriate for complex	Original approval for complex anticipated large rigid vehicles (more onerous than semi-trailer swept path).

	<p>Council's Traffic Engineer has reviewed the proposal and found it satisfactory in this respect.</p> <p>Council's Traffic Engineer has reviewed the proposal and found it satisfactory subject to conditions</p>
Air pollution (debris & dust) created by use	Condition of consent are recommended to ensure air pollution mitigation measures.
Land use not permitted in zone	As described in Statement of Environmental Effects, and as assessed, the proposal would fit within definition of Light Industry, as described by WLEP 2009.
Business operations extend to car park, which is inappropriate	Any consent issued would restrict operations to within the walls of the unit.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Building & Fire Safety Officer

Councils Building & Fire Safety Officer has reviewed each application and found them satisfactory subject to conditions of consent.

Traffic Engineer

Councils Traffic Engineer has reviewed each application and found them satisfactory subject to conditions of consent.

Stormwater Engineer

Council's Stormwater Engineer has provided the flood planning level for the site.

Subdivision Engineer

Council's Subdivision Engineer has been consulted and they have recommended conditions to resolve inconsistencies between the strata plan and proposed location of mezzanine levels.

1.6.2 EXTERNAL CONSULTATION

None required

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

2.3 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.3.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Council records indicates that the land is contaminated. There are no earthworks proposed but the proposals do comprise changes of use.

Contamination was addressed in the documentation submitted with DA-2004/1593 which stated that the site has been filled with clean, uncompacted and suitable for industrial use. The assessment report for DA-2004/1593 states a preliminary investigation of the previous uses of the property was undertaken and, the approved filling works are the only record of any development on the site and therefore is not likely to be affected by contamination.

There are no concerns are raised regarding contamination as it relates to the intended uses of the land and the requirements of clause 7.

2.3.2 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

Maps published with the SEPP indicate the land is located in Coastal Environment Area and partially within the Coastal Wetland Buffer area.

Division 2 Coastal vulnerability area

11 Development on land in proximity to coastal wetlands or littoral rainforest

The proposed developments will not impact upon biophysical, hydrological or ecological integrity of the adjacent coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland

Division 3 Coastal environment area

The proposed developments will not have impacts on vegetation, marine life and water quality, Aboriginal heritage and community access. The development applications involves changes of use and minor internal construction works only, with no ground penetration or construction proposed. All matters detailed in subclause 1 and 2 are considered satisfactory.

Division 5 General

15 Development in coastal zone generally—development not to increase risk of coastal hazards

These matters are considered satisfactory as the proposed developments are unlikely to cause increased risk of coastal hazards on the surrounding environment.

2.3.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Division 15 Railways

Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors—notification and other requirements

85 Development adjacent to rail corridors

No impact on the adjoining rail corridor is will result therefore this clause is clause is not applicable.

2.3.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

Units 4 & 15:

Depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use, but does not include a farm building.

Units 7, 11, 12, 13 and 14:

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following:

- (a) high technology industry,
- (b) home industry,
- (c) artisan food and drink industry.

Note.

Light industries are a type of **industry**—see the definition of that term in this Dictionary.

Unit 3:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

Unit 6 & 9:

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, and includes local distribution premises.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned IN2 Light Industrial.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.*

The proposals reflect a range of permitted, largely industrial land uses which provide employment opportunities and are of minimal environmental impact.

The developments, both individually and collectively are satisfactory regarding the above objectives

The land use table permits the following uses in the zone.

*Advertising structures; Agricultural produce industries; Animal boarding or training establishments; Boat building and repair facilities; Community facilities; Crematoria; **Depots**; Freight transport facilities; Garden centres; Hardware and building supplies; Helipads; Industrial retail outlets; Industrial training facilities; Kiosks; Landscaping material supplies; **Light industries**; Mortuaries; Neighbourhood shops; Oyster aquaculture; Places of public worship; Plant nurseries; Recreation areas; **Recreation facilities (indoor)**; Roads; Self-storage units; Service stations; Sex services premises; Take away food and drink premises; Tank-based aquaculture; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; **Warehouse or distribution centres**; Waste or resource management facilities; Water treatment facilities*

The proposals are categorised as either depot, light industry, recreation facility (indoor) or warehouse or distribution centre, which are defined above and are permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The maximum building height is 11m. The proposals do not alter the existing building height of 8.1m

Clause 4.4 Floor space ratio

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

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,
- (c) to ensure buildings are compatible with the bulk and scale of the locality.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Maximum FSR permitted: 0.5:1 or **2,180.5m²** of gross floor area*.

* Based on 2004 site survey area – site area 4,361m²

Proposed GFA includes approved GFA plus additional proposed/existing mezzanine areas for units 3, 4, 6, 7, 9, 12, 13, 14 and 15 minus internal loading/unloading areas in units 6, 7, 11 (no mezzanine) 12, 13, 14 and 15.

It is noted ~85m of internal manoeuvring and loading areas are shown on the stamped plans issued for the original complex development.

Unit No.	Existing GFA	Proposed GFA	Loading/Unloading Area	Total GFA
1.	159	0	0	159
2.	165	0	0	165
3.	115.3	46.6	0	161.9
4.	115	91	0	206
5.	115	0	0	115
6.	115	92	39	207
7.	111	102	24	209
8.	108	0	0	108
9.	110	95	0	205
10.	98	0	0	98
11.	123	0	24	123
12.	137	95	24	232
13.	142	53	24	195
14.	142	100	24	242
15.	144.7	111	30	255.7
16.	233	0	0	233
Total	2133	785.6	189 (deduction)	2914.6
Total minus deduction				2725.6m²

Proposed total GFA: 2,725.6.9m² GFA or 0.62:1 FSR. Which equates to combined variation of 12%.

Each development collectively and individually represents a variation to this development standard.

For reference, the WLEP 2009 definition of gross floor area is;

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the Wollongong LEP 'Exceptions to development standards' provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument, where certain matters are met. In this instance, a departure is sought in respect of Clause 4.4 Floor Space Ratio which is detailed below. Statements from each applicant were submitted (attachment 5) in accordance with clause 4.6 have been provided and are addressed below:

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 4.4 Floor Space Ratio
Is the planning control in question a development standard	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	Yes. The applicant's requests contain this justification.
that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes, the applicant's requests contain this justification
4.6 (4) (a) Consent authority is satisfied that:	
the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and	<p>Each applicant has submitted a separate statement addressing the matters raised by subclause (3). A summary of rationale presented by the applicants (applicable to all collectively) to justify the proposed variation to the maximum floor space ratio (cl.4.4) is as follows;</p> <ul style="list-style-type: none"> - The objectives of the IN2 Light Industry zone are satisfied - The objectives of Cl 4.4 Floor Space Ratio are achieved

	<ul style="list-style-type: none"> - Variation does not impact Building appearance or bulk & scale generally as all mezzanine level are confined internally - Current provision of car parking for all units and complex generally exceeds DCP requirements - The variation does not compromise planning matters of Local, Regional, or State significance - Strict enforcement would require demolition of multiple structures across several units under separate ownership - Provision of mezzanine levels results in improved internal operations and unit functionality - Mezzanines allow for internal loading bays to be utilised, reducing reliance on common areas - Provision of mezzanines does not necessarily increase intensity of use and are either for storage or allows flexibility of use.
<p>the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p><u>Objects of the EPA Act 1979 and public interest</u></p> <p>The proposed mezzanines do not contravene Section 1.3 of the EPA Act 1979, as the resultant collective development represent an ecologically sustainable development which promotes the orderly and economic use and development of land whilst having no discernible environmental impact.</p> <p><u>Objectives of the standard</u></p> <p>The objectives of the standard (clause 4.4) are as follows;</p> <p><i>(a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,</i></p> <p>The extent of development of the site is largely dictated by the original approval for the overall complex (DA-2004/1593), extent of development describing site coverage, building heights, building envelopes, number of tenancies, cut and fill and impervious area.</p> <p>The proposed variations relate to internal mezzanine areas only, the impact of which affects the intensity of each related land use (to varying degrees) rather than visual bulk. Impacts in relation to intensity can be accommodated within the site's provision of car parking and servicing.</p> <p><i>(b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,</i></p> <p>The proposed mezzanines reflect a 545.1m² or 12% non-compliance to the 0.5:1 floor space ratio standard..</p> <p>The intensity of land use is largely dictated by land use type within each unit. All applications include significant storage components, with either the subject mezzanine areas to be used as storage, or alternately the ground floor to be used as storage and mezzanine for activities that would otherwise take place on</p>

	<p>the ground floor. Therefore, the addition of mezzanines does not necessarily intensify the land uses.</p> <p>The additional gross floor area is not anticipated to have adverse impacts on access to the public road, stormwater, vehicular movements, power or water.</p> <p>Regarding vehicle and pedestrian traffic, an assessment of provision of car parking has been undertaken in accordance with the provisions of Chapter E3 of the DCP. Each development individually has adequate provision of car parking, cumulatively across the entire complex there is an excess of at grade car parking to that which would be required under Chapter E3 which does not contribute to GFA. As much of the additional GFA is storage (or supports other storage areas), no significant increase in vehicular movements or pedestrian traffic is anticipated. It is noted there is a pedestrian footpath across Pioneer Road and the site is within walking distance to a bus stop and railway station, there is also adequate area within the site to accommodate pedestrian movements.</p> <p><i>(c) to ensure buildings are compatible with the bulk and scale of the locality.</i></p> <p>The proposed mezzanine areas are wholly contained within the subject units and have no discernible effect on the built form or scale of the existing industrial buildings.</p> <p>It is noted the buildings have a maximum height of 8.1m, where 11m is allowable under clause 4.3 of the LEP at this site and surrounds.</p> <p>Despite the variation the buildings are compatible with the bulk and scale of the locality. It is considered that the increased floor area being wholly contained within the building does not contravene the objectives of the development standard. The bulk of the building is not changing.</p> <p><u>Objectives of the IN2 Zone</u></p> <p>The collective development is consistent with Cl 2.3 objectives of the IN2 Light Industry zone, as follows;</p> <ul style="list-style-type: none"> • <i>To provide a wide range of light industrial, warehouse and related land uses.</i> <p>The proposals represent a variety of permitted land uses.</p> <ul style="list-style-type: none"> • <i>To encourage employment opportunities and to support the viability of centres.</i> <p>The proposals provide employment opportunities and do not detract from nearby town/village centres.</p> <ul style="list-style-type: none"> • <i>To minimise any adverse effect of industry on other land uses.</i> <p>Generally, the proposals are not anticipated to have an impact beyond that expected within an industrial zone. The objection raised can be mitigated via conditions of consent.</p>
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	<ul style="list-style-type: none"> <i>To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</i> <p>NA – No such uses proposed or precluded due to proposals.</p> <ul style="list-style-type: none"> <i>To support and protect industrial land for industrial uses.</i> <p>There will be no impact on industrial land uses.</p> <ul style="list-style-type: none"> <i>To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.</i> <p>The proposals are commensurate with that expected for light industrial / warehouse complexes and are therefore considered appropriate.</p> <p><u>Compliance reasonable or necessary</u></p> <p>In order to achieve compliance with Clause 4.4, 545.1m² of GFA would need to be removed from the overall site. This would likely require demolition of some (or all) of 785.6m² of existing mezzanine areas across 10 strata subdivided units proposed under this application, each under separate ownership.</p> <p>The developments, both collectively and individually have demonstrated compliance with all relevant LEP (with exception of clause 4.4) and DCP controls, the objectives of the standard and the IN2 Zone.</p> <p>In the circumstances of the case, it would be unreasonable or unnecessary strictly require compliance with the floor space ratio standard.</p> <p><u>Environmental Planning Grounds</u></p> <p>The developments, both collectively and individually have demonstrated compliance with all relevant LEP and DCP controls, the objectives of the standard and the IN2 Zone. Furthermore, the addition of the mezzanine levels will have no discernible visual or environmental impact.</p> <p>There are sufficient environmental planning grounds to allow the variation.</p>
the concurrence of the Secretary has been obtained.	Yes; Council can exercise its assumed concurrence in this instance

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The existing development is already serviced by electricity, water and sewage services.

Clause 7.3 Flood planning area

Council's Stormwater Engineer has provided the flood planning level for the site, which varies between RL5.91m (north east corner) – RL6.5m (north west corner). The floor level of the subject units are all above the flood planning level, being either RL8.1m (northern units) or RL8.6m (southern units).

The developments, both individually and collectively, do not represent an increase risk to life or property.

Clause 7.5 Acid Sulfate Soils

The proposals are identified as being affected by class 4 & 5 acid sulphate soils. An acid sulphate soils management plan is not required as the developments relate to an existing building and no excavation is proposed.

2.4 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

NA

2.5 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.5.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP. The proposals are considered to be consistent with the principles of Ecologically Sustainable Development.

CHAPTER B5 INDUSTRIAL DEVELOPMENT

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3 Factory / warehouse distribution centre building design requirements</u>	NA – No change to building setbacks	NA
<u>4 Building design / façade treatment</u>	NA – No change to building design / façade	NA
<u>5 Energy and Water Efficiency</u>	The site is already developed. Existing energy / water measures are acceptable.	Y
<u>6 Safety and security</u>	The developments relate to land use and internal works only. The building envelopes and overall design remain unchanged. The developments do not raise any concerns with regard to crime prevention.	Y
<u>7 Carparking requirements</u> See Chapter E3	Each development complies in addition to the cumulative total required of all units See assessment under Chapter E3 with regard to car parking.	Y
<u>8 Loading dock facilities, vehicular access and manoeuvring requirements</u>	The existing maneuvering area is satisfactory in this respect.	Y

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
	See assessment under Chapter E3 with regard to access & servicing.	
<u>9 Landscaping requirements</u>	NA – No change to landscaping	NA
<u>10 Outdoor storage areas</u>	NA – No outdoor storage proposed	NA
<u>11 Shipping container storage facilities</u>	NA	NA
<u>12 Motor Vehicle Repair Workshops</u>	NA	NA
<u>13 Fencing</u>	NA – No change to fencing	NA
<u>14 Use of factory / warehouse units</u>	Council's Building & Fire Safety Officer has reviewed the proposals with respect to BCA compliance and indicated that the developments are satisfactory subject to conditions.	Y
<u>15 Abrasive blasting industry</u>	NA	NA
<u>16 Industrial development adjoining a residential zone</u>	The site does not directly adjoin a residential zone. However, it is noted a residential zone is located approximately 3m to the north and is separated by narrow lot owned by Wollongong City Council. A watercourse also separates the site from the nearest dwelling which his approximately 45m to the north. The proposals are not anticipated to have any amenity impacts on any residential properties.	Y
<u>17 Retailing in industrial areas</u>	NA	NA
<u>18 Yallah Industrial Estate</u>	NA	NA
<u>19 Jardine Street Industrial Estate</u>	NA	NA

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>20 Advertising structures / signs</u>	NA – No signage proposed, developments will utilise existing approved signage	NA
<u>21 Stormwater drainage requirements & flood study requirements</u>	No change to stormwater management is proposed. Whilst the site is flood affected, the developments are satisfactory with regard to flooding. See further assessment under Chapter E14.	Y
<u>22 Riparian corridor management</u>	NA	NA
<u>23 Utility infrastructure services</u>	All related units are adequately serviced.	Y
<u>24 Subdivision of industrial land</u>	NA	NA
<u>25 Road design & construction requirements – road types and characteristics for public roads</u>	NA	NA
<u>26 Restricted access to arterial or sub-arterial roads</u>	NA	NA
<u>27 Street lighting</u>	NA	NA
<u>28 Strata subdivision of multi-unit factory / warehouse distribution centre complexes</u>	A condition is proposed to require the strata subdivision plan be updated to reflect proposed floor space allocation.	Y

CHAPTER D1 – CHARACTER STATEMENTS

Woonona

The proposed developments are considered to be consistent with the existing and desired future character for the locality.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

The units all have at grade access and accessible amenities. Mezzanine areas are largely used for storage or as ancillary to the primary activities undertaken on the ground floor. A condition is recommended to ensure storage areas remain as such.

Council's BCA & Fire safety Officer has assessed the developments with regard to accessibility and requirement for upgrade at DA stage and found the developments satisfactory in this respect.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The developments relate to land use and internal works only. The building envelopes and overall design remain unchanged. The developments do not raise any concerns with regard to crime prevention.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

7 Parking demand and servicing requirements

Parking

Requirements

Industry: 1 space / 75m²

Warehouse / Distribution centre: 1 space / 75m²

1 bicycle space per 200m² (either land use)

No car parking rate for depots or recreation facilities (indoor)

Cl 7.4: 30% reduction due to proximity to Bellambi Railway Station and Pioneer Road bus stop.

- **Unit 9** (DA-2019/951) Warehouse and Distribution: $205 / 75 \times 0.7 = 1.9 \text{ spaces \& 1 bicycle space}$
- **Unit 4** (DA-2019/1034) Depot (Industry rate applied as per Traffic Engineer advice): $206 / 75 \times 0.7 = 1.9 \text{ spaces}$
- **Unit 6** (DA-2019/1054) Warehouse and Distribution: $168 / 75 \times 0.7 = 1.6 \text{ spaces}$
- **Unit 7, 11, 12, 13 and 14** – (DA-2019/1058) Industry: $758 / 75 \times 0.7 = 7 \text{ spaces \& 3 x bicycle spaces}$
- **Unit 3** (DA-2019/1177) Recreation Facility:
 - One on one or small group training only proposed, generally outside of peak hours.
 - Traffic Engineer has advised 2 dedicated spaces, supplemented by visitor spaces adequate to service development
- **Unit 15** – (DA-2019/1259) Depot: $225 / 75 \times 0.7 = 2.1 \text{ spaces \& 1 bicycle spaces}$

Each unit has 2 x spaces allocated it (20 across all units), supplemented by eight (8) visitor spaces. **16.5 spaces** are required across all DAs. The strata plan nominates areas of parking for each unit.

Bicycle spaces may be accommodated within the units and will be required as conditions of consent.
- **Total complex** - Regarding the car parking requirement for the overall complex, assuming a industry use across all 16 units, the required car parking would be $2,725.6 / 75 \times 0.7 = 25.4 \text{ spaces}$

There is a total of 43 spaces onsite.

Each unit has sufficient parking and overall the development has an excess of parking.

Servicing

Servicing access for small & large rigid vehicle required for subject land uses. The approved plan for the original complex approval demonstrates maneuvering for a large rigid vehicle, this has not changed.

The existing maneuvering area is satisfactory in this respect. Council's Traffic Engineer has reviewed the proposal and found it to be satisfactory in this regard.

CHAPTER E6: LANDSCAPING

No change to existing & approved landscaping.

CHAPTER E7: WASTE MANAGEMENT

Onsite waste servicing is available to all units concerned.

CHAPTER E13 FLOODPLAIN MANAGEMENT

Council records identify the land as being located within a low, medium and high flood risk precinct. The majority of the site is not flood affected, the hazard is limited to a portion of the northern boundary and western boundary areas, affecting each strata lot differently.

Council's Stormwater Engineer has provided the flood planning level for the site, which varies between RL5.91m (north east corner) – RL6.5m (north west corner).

The floor level of the subject units are all above the flood planning level.

The developments, both individually and collectively, do not represent an increase risk to life or property and are satisfactory with regard to the controls of Chapter E13.

CHAPTER E14 STORMWATER MANAGEMENT

No change to stormwater management is proposed

CHAPTER E21 DEMOLITION AND HAZARDOUS BUILDING MATERIALS MANAGEMENT

No demolition is proposed.

2.5.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2018

The estimated cost of works for all development range from \$1 (nominal figure) to \$74,000 and a levy is not applicable to any under this plan as the threshold value is \$100,000.

2.6 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

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the developments.

2.7 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

No demolition is proposed, in the event that demolition is required due to condition of consent, standard condition with respect to demolition could be applied.

93 Fire safety and other considerations

Council's Building & Fire Safety Officer has reviewed the proposals and advised that the building, including all individual tenancy units have a current Fire Safety Schedule ES-2007/24.

An upgrade of the building with regard to Fire Safety is not triggered under Clause 93 or 94 of the Environmental Planning & Assessment Regulation.

94 Consent authority may require buildings to be upgraded

As per clause 93.

2.8 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

The proposed land uses are permitted in the zone and no alteration to building appearance or physical / environmental impacts to surrounding environments will result. As the bulk and scale of the building is not changing as part of this application the building as viewed from the street is comparable to surrounding area. The development is largely in harmony with the surrounding buildings and character of the street.

Access, Transport and Traffic:

Access and car parking have been considered under relevant DCP controls and by Council's Traffic Engineer and were found to be satisfactory.

Public Domain:

No discernible impact on the public domain will result.

Utilities:

The proposals are not envisaged to place an unreasonable demand on utilities supply. Existing utilities are adequate to service the proposal.

Heritage:

No heritage items will be impacted by the proposals.

Other land resources:

The proposals are considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water.

Soils:

No excavation is proposed or impact on soils anticipated.

Air and Microclimate:

The proposals are not expected to have any negative impact on air or microclimate.

Flora and Fauna:

There is no vegetation removal or landscaping proposed or required.

Waste:

No construction works are proposed. Existing servicing arrangements apply.

Energy:

The proposals are not envisaged to have unreasonable energy consumption.

Noise and vibration:

No construction works are proposed.

Natural hazards:

The site is flood affected, this constraint has been considered under the relevant LEP and DCP controls and found to be acceptable.

<u>Technological hazards:</u>
There are no technological hazards affecting the site that would prevent the proposals.
<u>Safety, Security and Crime Prevention:</u>
The applications do not result in any opportunities for criminal or antisocial behaviour.
<u>Social Impact:</u>
The proposals are not expected to create any negative social impact.
<u>Economic Impact:</u>
The proposals are not expected to create any negative economic impact.
<u>Site Design and Internal Design:</u>
The applications constitute a variation to development standards (floor space ratio), this has been considered under cl4.6 of the LEP and found to be acceptable. A condition is proposed that all works are to be in compliance with the Building Code of Australia.
<u>Construction:</u>
No construction works are proposed.
<u>Cumulative Impacts:</u>
The proposals are not expected to have any negative cumulative impacts.

2.9 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposed developments are considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposals.

2.10 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

The single submission has been considered, see section 1.5 above.

2.11 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The applications are not expected to have any unreasonable impacts on the environment or the amenity of the locality. The proposals are considered appropriate in this instance with consideration to the zoning and the character of the area and are therefore considered to be in the public interest.

3 CONCLUSION

The applications have been assessed as satisfactory having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 including the provisions of Wollongong LEP 2009 and all relevant SEPPs, DCPs, Codes and Policies.

The proposals are permissible with consent in the IN2 Light Industrial zone under the provisions of Wollongong Local Environmental Plan 2009 and are consistent with applicable provisions of the LEP apart from the exception of the variations to FSR identified in this report. The variations have been assessed and, in this instance, do not hinder the zoning or objectives and are not discernible. The proposals are also consistent with the requirements of Wollongong Development Control Plan 2009.

Public submissions have been considered and form part of Council's assessment and referrals are satisfactory.

4 RECOMMENDATION

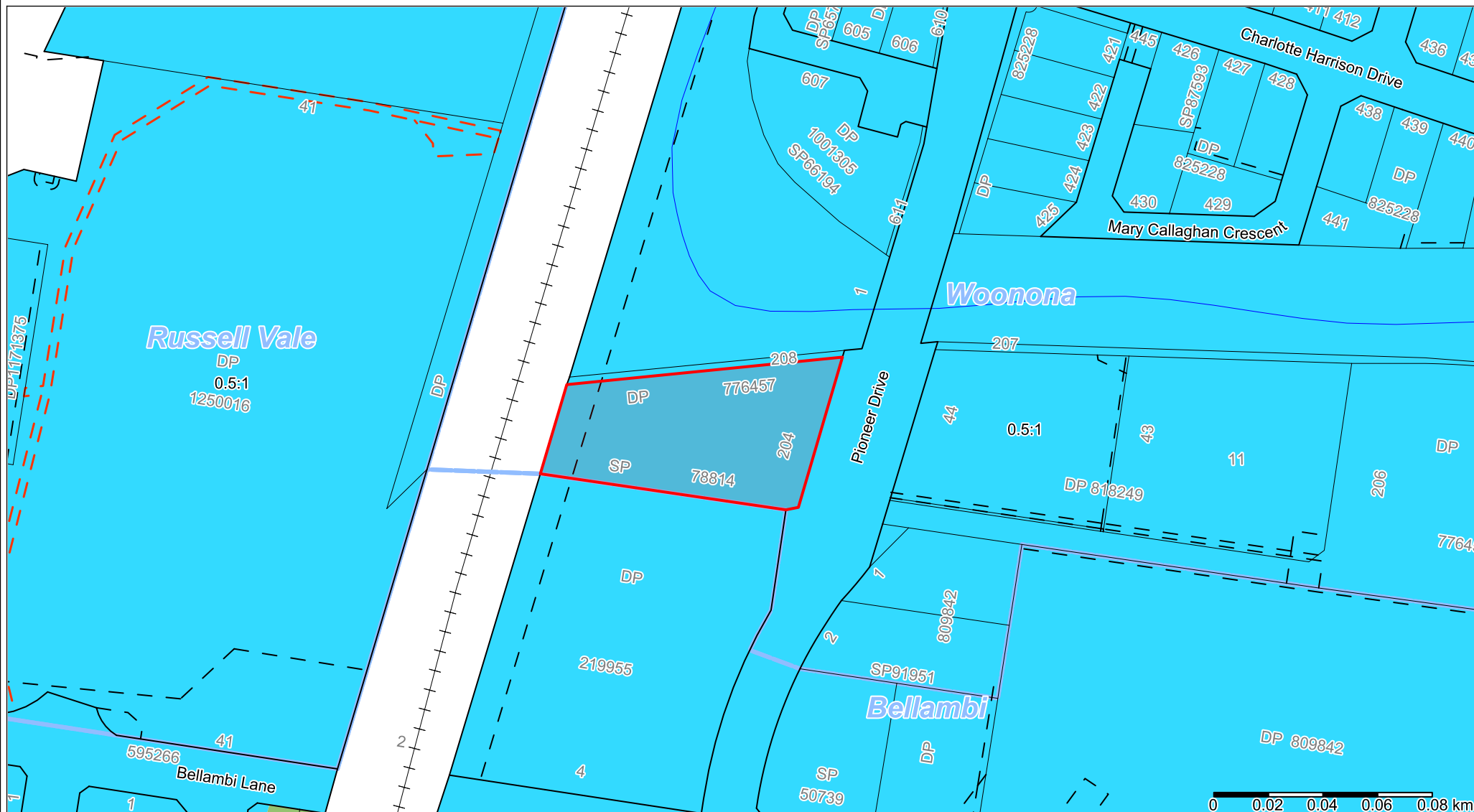
It is recommended that development applications be approved subject to condition at Attachment 4 to 9.

5 ATTACHMENTS

- 1 Site photos/aerial photo
- 2 Wollongong LEP 2009 Zoning Map
- 3 Wollongong LEP 2009 Floor Space Ratio Map
- 4 DA-2019/951
 - a. Plans
 - b. Clause 4.6 submission
 - c. Draft conditions
- 5 DA-2019/1034
 - a. Plans
 - b. Clause 4.6 submission
 - c. Draft conditions
- 6 DA-2019/1054
 - a. Plans
 - b. Clause 4.6 submission
 - c. Draft conditions
- 7 DA-2019/1058
 - a. Plans
 - b. Clause 4.6 submission
 - c. Draft conditions
- 8 DA-2019/1177
 - a. Plans
 - b. Clause 4.6 submission
 - c. Draft conditions
- 9 DA-2019/1259
 - a. Plans
 - b. Clause 4.6 submission
 - c. Draft conditions

Attachment 1





Wollongong Local Environmental Plan 2009 - Floor Space Ratio Map



FOR INTERNAL USE ONLY

Printed: 9/12/2019

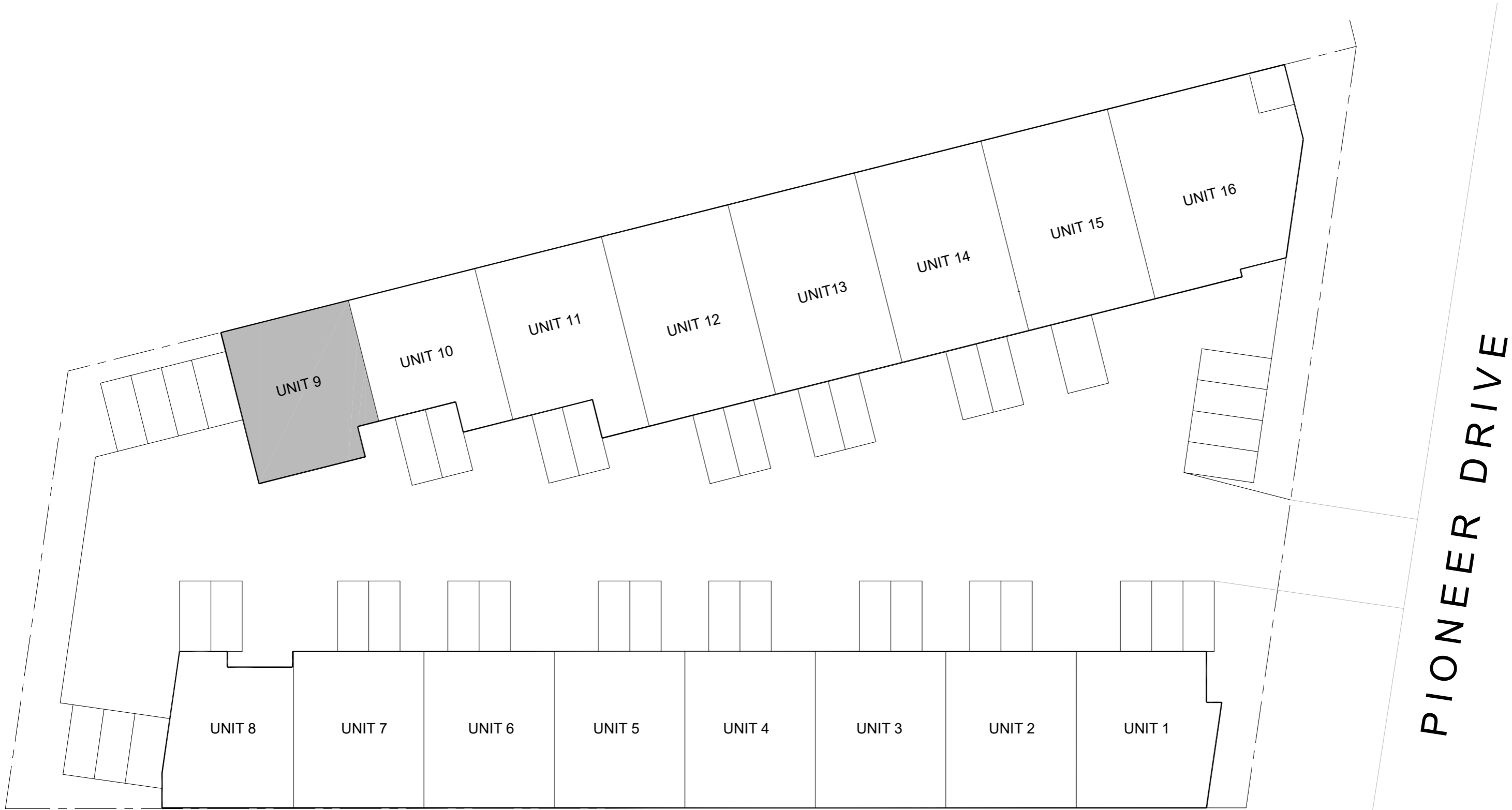
Printed By: Martin Jameson

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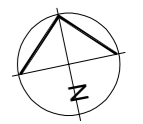
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<div><div>COKEWORKS</div><div>DESIGN</div><div>BUILDING DESIGN + DETAIL</div><div>PROPOSED CHANGE OF USE</div><div>D & S SUPERFUND</div><div>UNIT 9, 8 PIONEER DRIVE, BELLAMBI</div></div>		
title: SITE CONTEXT & LOCATION PLAN		A01
scale:1:1500 @ A4 date: SEPTEMBER 2019 rev: A		

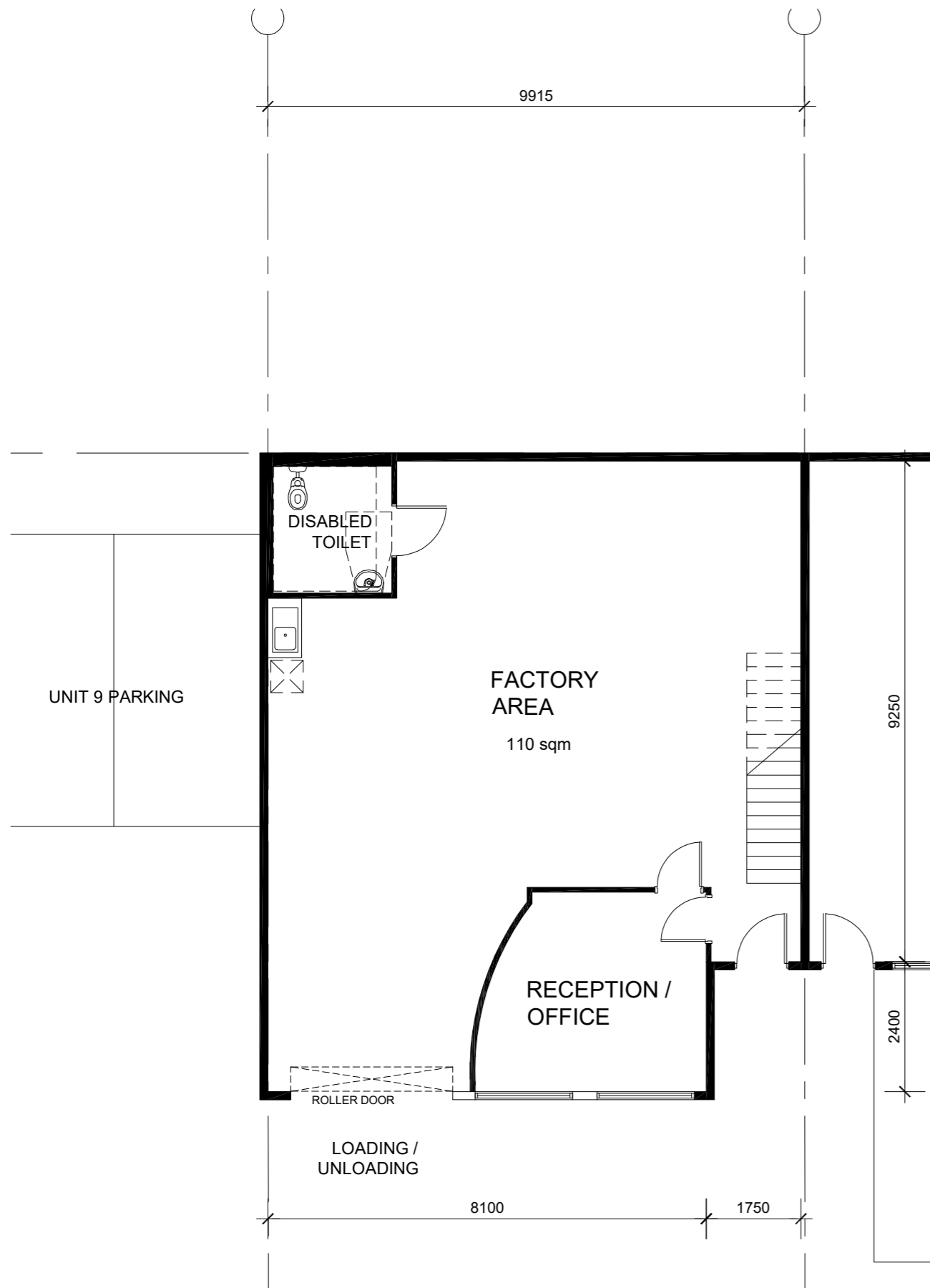


COKEWORKS DESIGN
BUILDING DESIGN + DETAIL
PROPOSED CHANGE OF USE
D & S SUPERFUND
UNIT 9, 8 PIONEER DRIVE, BELLAMBI

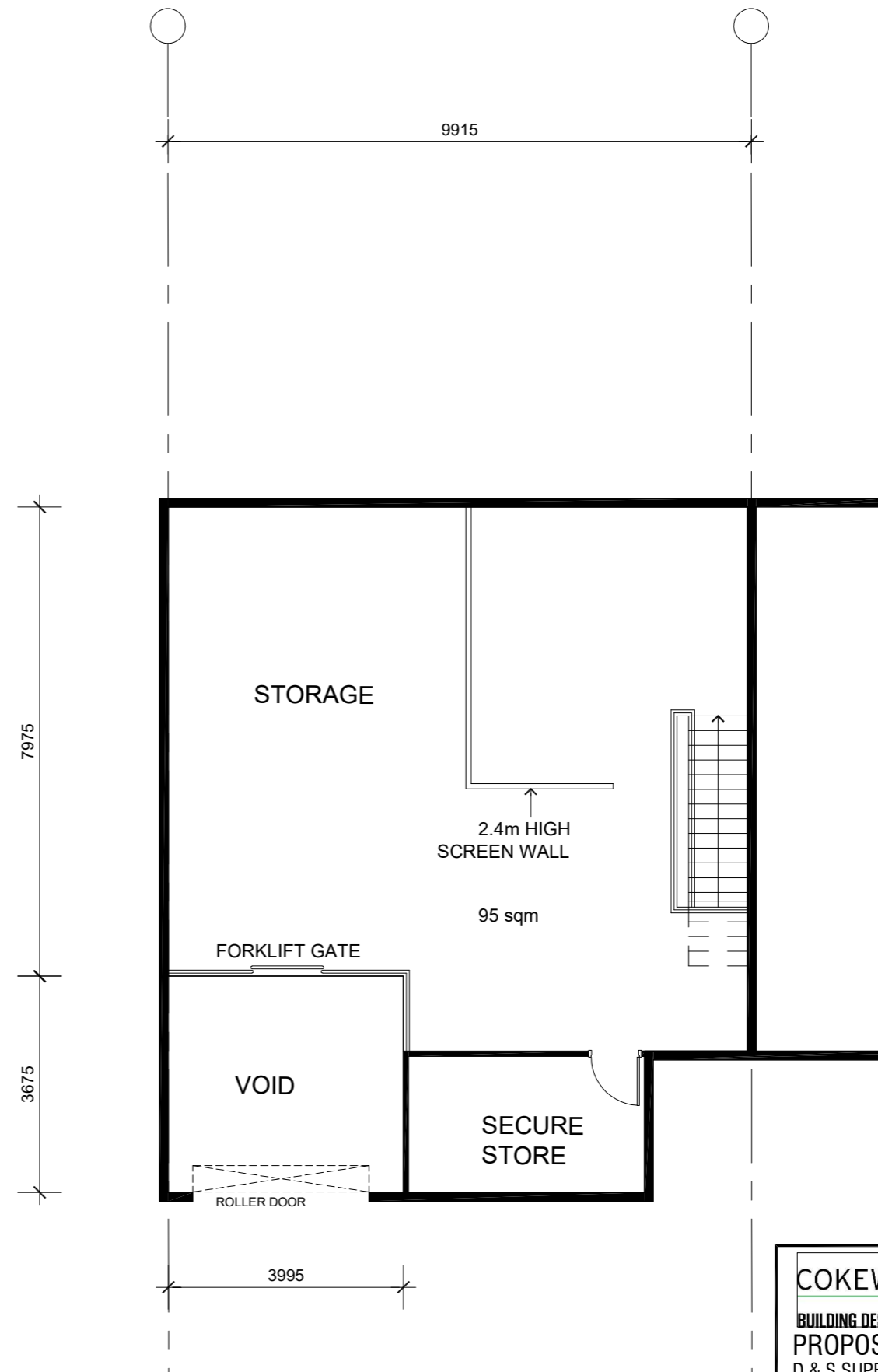


title: SITE PLAN A02


scale: 1:300 @ A3 date: SEPTEMBER 2019 rev: A



GROUND FLOOR PLAN



MEZZANINE FLOOR PLAN

<div>COKEWORKS DESIGN</div> <div>BUILDING DESIGN + DETAIL</div> <div>PROPOSED CHANGE OF USE</div> <div>D & S SUPERFUND</div> <div>UNIT 9, 8 PIONEER DRIVE, BELLAMBI</div>		
title: FLOORPLANS	A03	
scale: 1:100 @ A3 date: SEPTEMBER 2019 rev: A		

EXCEPTIONS TO DEVELOPMENT STANDARDS STATEMENT

DEVELOPMENT APPLICATION FOR INTERNAL MEZZANINE UNIT 9/ 8 PIONEER DRIVE BELLAMBI

This statement seeks an exemption to a development standard prescribed by the *Wollongong Local Environmental Plan 2009 (LEP)*.

The proposal seeks to construct an internal storage mezzanine within an existing light industrial unit. The exemption is sought as the site Floor Space Ratio is currently at the maximum proposed for the site (0.5:1).

The exception is sought pursuant to Clause 4.6 of the LEP. An exception is sought in relation to the strict application of the Floor Space Ratio of the site of 0.5:1.

The site area of 204 DP 776457. is 4373sqm. The site contains two blocks of industrial units with a total ground floor area of 2030sqm with a resultant FSR of 0.46:1.

Forming part of DA2004/1593 were mezzanine floors in units 1 & 16 which resulted in an FSR of 0.5:1 (2183sqm of gross floor area).

The buildings were designed and marketed to be capable of internal mezzanines with a height that allows for compliant ceiling clearances for two levels with each unit having a clear internal height exceeding 6m.

The mezzanine proposed for unit 9 is 95sqm including the internal access stair on each level. The total proposed area of unit 9 will result in a gross floor area of 205sqm.

VARIATION UNDER CLAUSE 4.6 WOLLONGONG LOCAL ENVIRONMENT PLAN 2009

The objectives of this clause are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- *Development consent must not be granted for development that contravenes a development standard unless: the consent authority is satisfied that:*
 - *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The commentary provided outlines the development standard variation being proposed to be read in conjunction with the Statement of Environmental effects and Architectural plans.

Development Standard being varied

The development standard to be varied in this instance is Clause 4.4 Floor Space Ratio limiting the maximum Floor Space Ratio (FSR) to 0.5:1.

This mezzanine will increase the approved FSR to 0.52:1. This variation constitutes less than 10% variation and is minor in nature in relation to the context of the existing development.

Grounds for exception

The objectives of this control are as follows:

- *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- *to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- *to ensure buildings are compatible with the bulk and scale of the locality.*

The exception being sought will not result in a visible change externally and will be wholly contained within the existing building structure. This proposal will not increase the built form on the subject site.

The site was originally well serviced with carparking and whilst the site has been strata titled with this carparking allocated to individual units and common use, the provision of carparking of the overall development exceeds the Wollongong Development Control Plan 2009 requirement of one (1) carparking space per seventy five (75) sqm of gross floor area.

The development in its entirety provides a total of thirty nine (39) parking spaces with five (5) of these spaces allocated for visitor parking. With the proposed increase to FSR of this application the site still provides approximately eight (8) carparking spaces in excess of the minimum.

The site is controlled by Wollongong LEP 2009 within which it is zoned IN2 – Light Industrial

The objectives of the IN2 Zone

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.*
-

The exception sought in relation to this minor variation to Floor Space Ratio will not contradict the stated zone objectives being:

- The proposed exception aims to provide a larger light industrial unit without any adverse environmental impacts on other land used and,
- Provides a more viable space to allow for small business to utilise increasing employment opportunities to support the viability of the local region and contribute to economic growth and employment growth of Wollongong

The Intent of Clause 4.6 allows for the contravention of a development standard with approval of the consent authority. Compliance with *Clause 4.4 – Floor Space Ratio* of the *LEP* is considered to unreasonable or unnecessary when applied to the proposed internal mezzanine.

- The proposal does not increase the bulk and scale of the existing development
- The proposal can provide adequate carparking to service the development
- Non compliance with the development standard does not raise any matter of local, state or regional environmental planning significance

It is evident there are sufficient grounds to justify contravening the Floor Space Ratio in this instance, therefore it is considered that strict compliance with the Floor Space Ratio requirement under *Clause 4.4* is unwarranted given the circumstances of the proposal

DRAFT CONDITIONS DA-2019/951

Approved Plans and Specifications

- 1) The development shall be implemented substantially in accordance with the details and any details on

Site Plan A02 Rev A dated September 2019 prepared by Cokeworks Design

Floor Plans A03 Rev A dated September 2019 prepared by Cokeworks Design

and with any supporting information received, except as amended by the conditions specified and imposed hereunder. The plans and specifications approved by this Modification supersede plans and specifications previously approved where there are any inconsistencies.

General Matters

- 2) **Disability Discrimination Act 1992**
This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.
- 3) **Separate Consent Required for Advertising Signage**
This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development.
- 4) A minimum of one (1) bicycle wall hanger must be installed within the industrial unit to allow employees to securely store bicycles as per the Australian Standard AS2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.
- 5) **Structural Adequacy**
The mezzanine level must be certified by a suitably qualified Structural Engineer detailing that it has been constructed to their satisfaction with regard to Structural integrity and intended use.
- 6) **Mezzanine Balustrade**
The mezzanine balustrade must comply with Part D2.16 of the National Construction Code Series (BCA) Volume 1.
- 7) **Strata Plan**
The Strata Plan SP 78814 is to be amended, or new plan registered, to reflect the approved floor plan of the unit and encompassing industrial unit complex.

Operational Phases of the Development/Use of the Site

- 8) **Use of Areas within Unit**
Areas shown for use as Storage or Loading, Unloading or Servicing are to be limited to the stated use and not to be used for other business or industrial activities.
- 9) **Use of common areas**
Business and industrial activities are to take place within the unit. No business or industrial activities are to take place outside of the unit or within common driveway areas.
- 10) **Staff Numbers**
A maximum of two (2) staff are to be onsite at the premises at any one time.
- 11) **Restricted Hours of Operation**
The hours of operation for the development shall be restricted to:
 - Monday to Saturday: 0800 – 1800

Any extension to the approved hours of operation will require separate Council approval.

12) **Restricted Delivery Hours**

The delivery of service trucks shall be limited to 6.30 am to 9.00 pm daily, Mondays to Fridays and 8.00 am to 5.00 pm Saturdays only. Any alteration to the approved delivery hours will require the separate approval of Council.

13) **Storage of Goods and Materials**

All goods, materials and equipment shall be stored within the building and no part of the land shall be used for purposes of storage.

14) **No Display of Goods and Materials Outside Premises**

The placement of any cabinet, display stand, racks or any other means of displaying goods, whether or not for sale shall not be located on any property boundary, road reserve or outside the premises.

15) **Restriction on Placement of Storage Racks, Cabinets, Pallets etc**

The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.

16) **Noise Restrictions on Industrial Development**

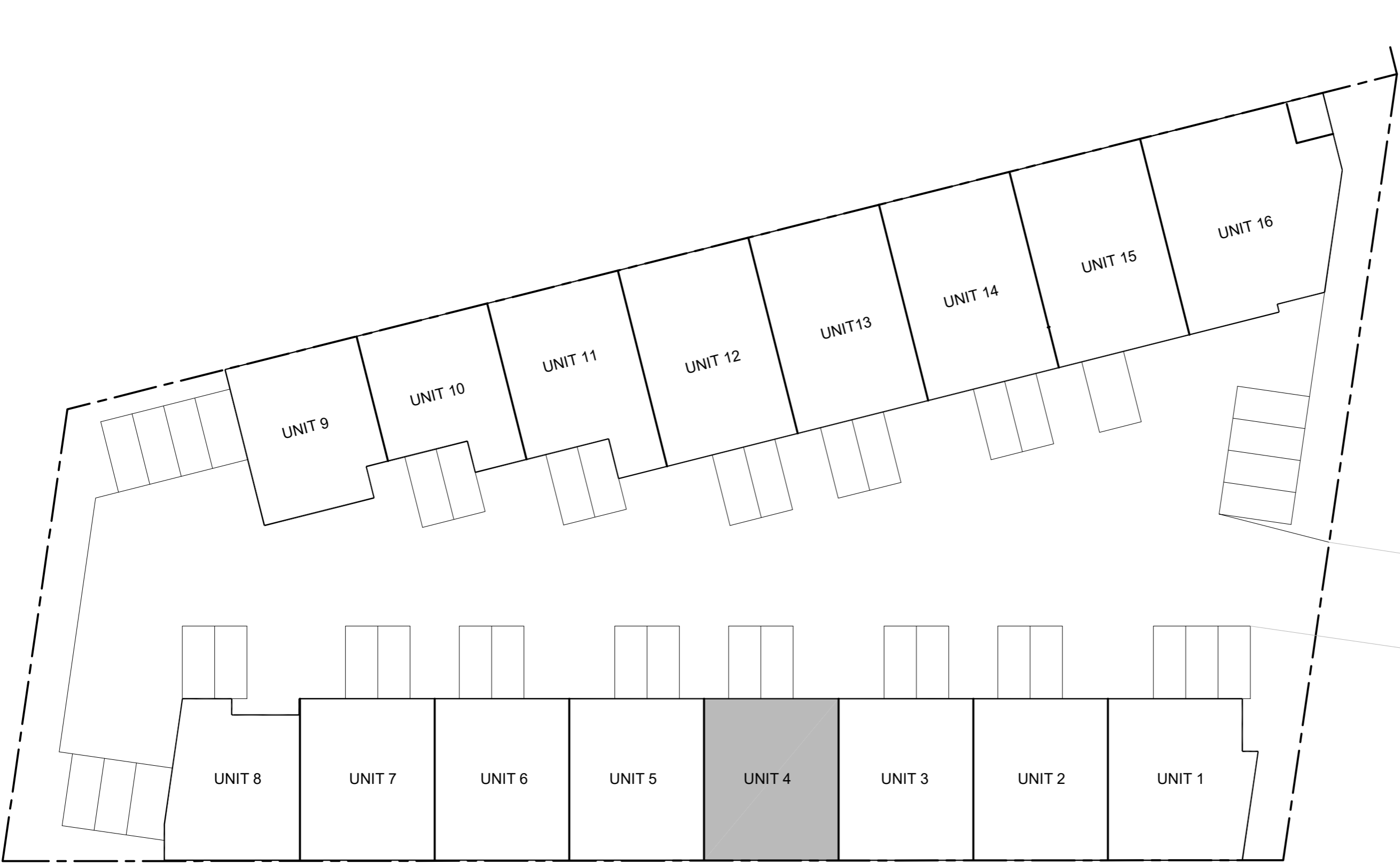
The noise ($L_{Aeq} (15min)$) emanating from industrial developments must not exceed 5 dB(A) above the background noise level ($L_{A90} (15min)$) of the area at any boundary of the land.

17) **Loading/Unloading Operations/Activities**

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.

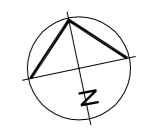


<div> <div>COKEWORKS</div> <div>DESIGN</div> </div>		
<p>PROPOSED CHANGE OF USE UNIT 4 8 PIONEER DRIVE, BELLAMBI</p>		
<p>title: SITE CONTEXT & LOCATION PLAN</p>		<p>A01</p>
<p>scale: 1:1500 @ A4 date: SEPTEMBER 2018 rev: A</p>		



COKEWORKS DESIGN

PROPOSED CHANGE OF USE
UNIT 4
8 PIONEER DRIVE, BELLAMBI

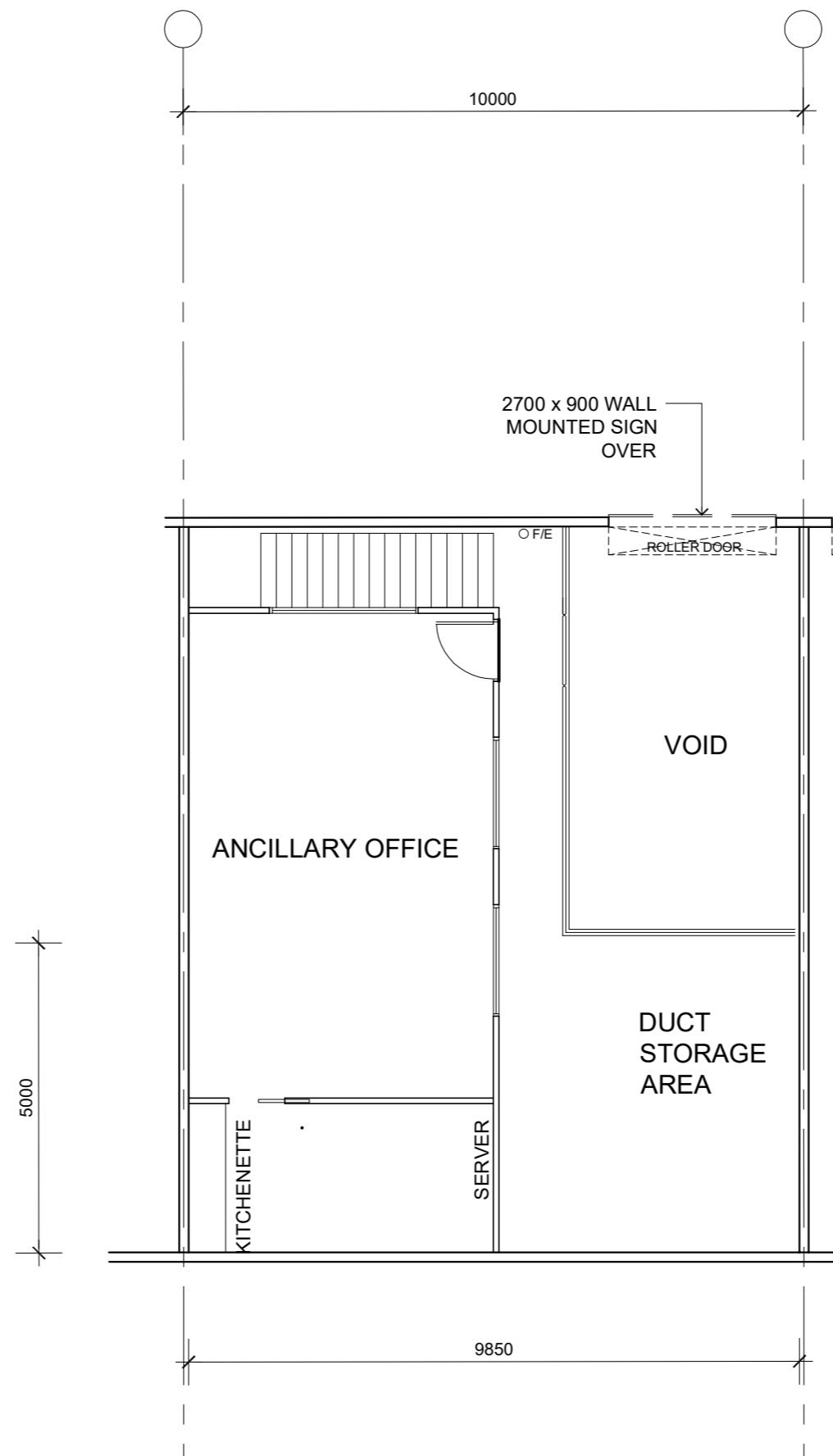
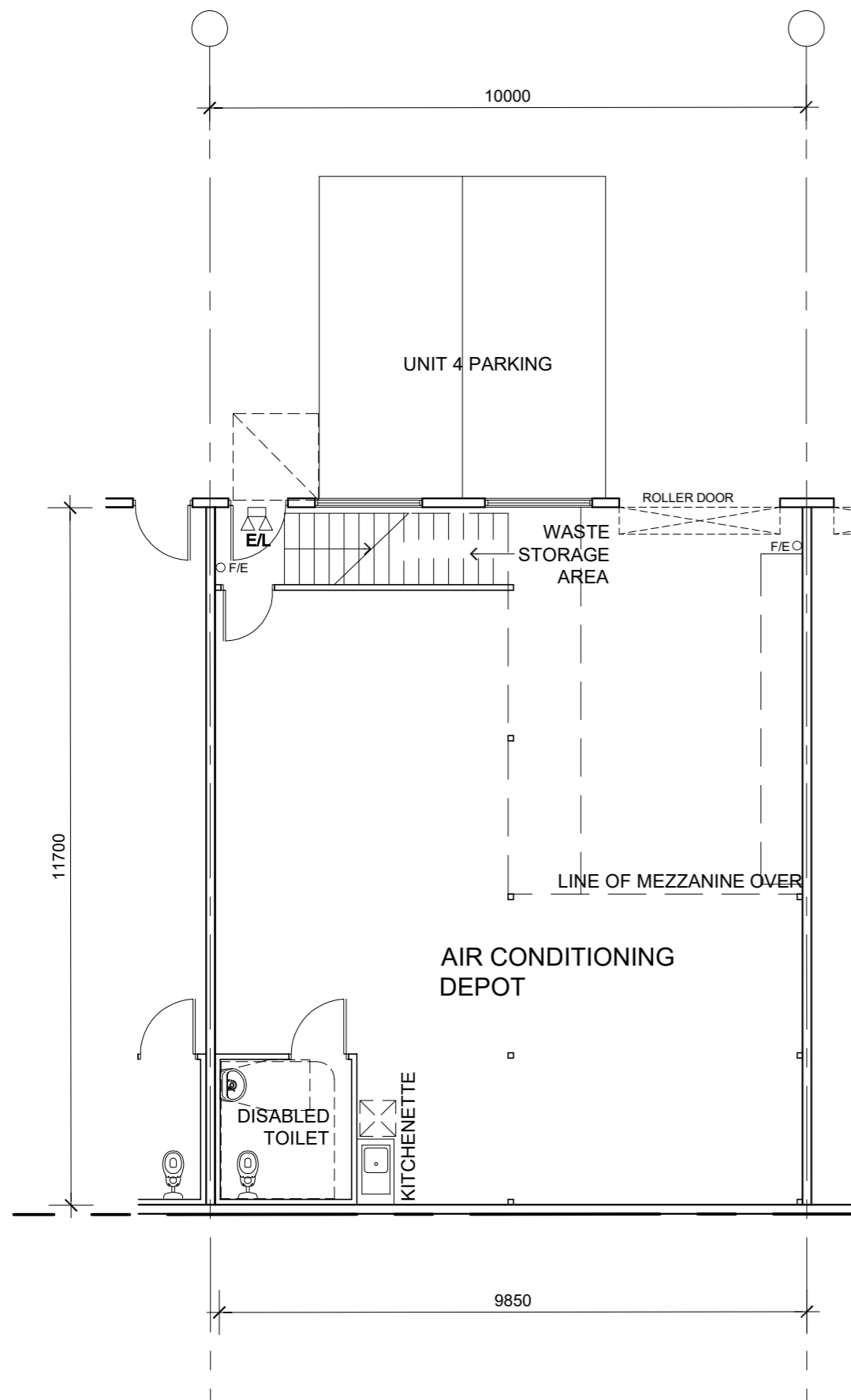



title: SITE PLAN

A02

scale: 1:300 @ A3 date: SEPT. 2018

rev: A



<div>COKEWORKS DESIGN</div> <div></div>		
PROPOSED CHANGE OF USE UNIT 4 8 PIONEER DRIVE, BELLAMBI		
title: FLOORPLANS	A03	
scale: 1:100 @ A3 date: SEPT 2018 rev: A		

Clause 4.4 Floor space ratio

<i>Requirement</i>	<i>Provision</i>	<i>Compliance</i>
Maximum 0.5:1	<p>88.25sqm additional floor area beyond maximum permitted.</p> <p>Current FSR calculation cannot be accurately determined due to the number of existing mezzanines pending consideration and potential approval. However, it is noted that any further approved mezzanine within this complex will be in exceedance of the allowable gross floor area.</p>	Please refer to Clause 4.6 variation below.

Clause 4.6 Exceptions to Development Standards

The floor area incorporated within the mezzanine level within Unit 4 results in the overall development exceeding the allowable floor space ratio of 0.5:1. The exact calculation of existing floor area cannot currently be determined due to a number of existing unauthorised mezzanine's being considered by Council to determine if it is reasonable for them to be retained. However, it is understood that the authorisation of the mezzanine within Unit 4 will not result in a variation of greater than 10%.

Clause 4.6 provides that:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

In order to clarify the extent of the matters required to be addressed within a request for a variation under Clause 4.6, consideration has been given to the following case law:

Wehbe v Pittwater [2007] NSWLEC827

Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90

Moskovich v Waverley Council [2016] NSWLEC1015

Randwick City Council v Micaul Holdings Pty LTD [2016] NSWLEC7

Review of these cases indicates that a request for a variation under the provisions of Clause 4.6 is more onerous than previously required under SEPP 1. The case of *Randwick v Micaul* indicates that Council, as the consent authority, maintains a high level of discretion with regard to the level of justification required in order to support a variation request. The following must be demonstrated to Council's satisfaction within the justification provided:

- Compliance with the objectives of the development standard;
- Compliance with the objectives of the zone;
- That the development standard is unreasonable or unnecessary in the circumstances of the case;
- Sufficient environmental planning grounds exist that are particular to the circumstances of the proposed development.

This submission individually addresses each of the above requirements in the following manner:

Compliance with the objectives of the development standard

The subject mezzanine provides an additional floor area of 88.25m² beyond the approved development. However, the development continues to achieve the objectives of *Clause 4.4 – Floor Space Ratio* in the following manner:

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- (c) to ensure buildings are compatible with the bulk and scale of the locality.*

The external appearance of the development and the overall building footprint remains unaltered by the inclusion of a mezzanine. The visual bulk of the development, access to the site and the existing parking arrangement will remain as existing.

The subject mezzanine and its use for storage, office space and associated lunchroom facilities will not increase the intensity of the land use or the demand on surrounding infrastructure. Rather, it allows for the relocation of these uses from the ground level creating space to incorporate an internal loading bay for Camray Air's field staff to load their vehicles. The nature of the business, installing air-conditioning systems, results in the need to store heavy and bulky items at ground floor that often require the use of a forklift to load/unload from vehicles. The ability to free up space at ground level by relocating office staff and lightweight storage to the mezzanine level allows for a safer operation of the unit, without increasing the intensity of the landuse.

The ability to load/unload vehicles within the unit reduces congestion within the parking area of the complex and minimises potential land use conflicts. As the mezzanine within Unit 4 is not being utilised to intensify the land use, rather to create additional space at ground floor level & permit the safe operation of the depot, it is considered to result in an improved outcome in this instance.

The development is considered to achieve the objectives of the floor space ratio development standard despite the requested variation.

Compliance with the objectives of the zone

The objectives of the IN2 Zone are:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.*

The increased floor area resulting from the subject mezzanine allows for the safe operation of the unit as a depot, being an ideal form of development for the Light Industrial Zone. The depot relates to a business that provides employment opportunities, without having to accommodate all staff onsite and without the need for customers to attend the premises. The limited traffic movements resulting from the use, along with the low intensity operation, ensure there is minimal impact on the adjoining residential zoning.

The inclusion of the subject mezzanine does not intensify the land use, rather it allows for the operation of the unit as a depot, being an ideal land use for the Light Industrial Zone. The objectives of the zone continue to be achieved despite the increased floor area.

Development is unreasonable or unnecessary in the circumstances of the case

In this instance the incorporation of the mezzanine is considered to result in an improved outcome than would result from a compliant proposal for the following reasons:

- the office and storage area located at mezzanine level allows for an internal loading bay and safe manoeuvring area for the forklift;
- the area does not result in any increased intensification or increase in staff. The site will continue to operation with one (1) permanent office staff member onsite and a maximum of 2 people working from the site at any one time (in addition to field staff attending to load/unload vehicles);

- without the mezzanine and subsequent internal loading bay, the site would become less likely to be utilised as a depot in the long term. With many alternate, permissible land uses having a greater impact in relation to traffic movement, noise and potential emissions, this is not considered an ideal outcome for a site adjoining a residential zone.

It would seem unreasonable and unnecessary to require compliance with the floor space ratio control in this instance, as the mezzanine does not result in any increased impact on the industrial complex or the surrounding natural or built environments.

Sufficient environmental planning grounds that are particular to the circumstances of the proposed development

Unit 4 is capable of supporting many forms of industrial activity, many of which would have a far greater impact on the amenity of the area than the proposed depot. It is the mezzanine area that allows for the depot to suitably operate from the site, allowing for an internal loading bay to be accommodated. This is provided in addition to the allocated parking spaces and reduces the demand on parking and manoeuvring within the complex.

The incorporation of additional floor area via a mezzanine would most commonly result in an increased intensity of a development through the ability to accommodate additional employees onsite. In this instance, the additional floor area is being utilised to reconfigure the unit and allow for increased open space at ground level to accommodate loading of vehicles.

The unique nature of the land use provides an outcome where the increased floor area does not increase the intensity of the use, reduces the demand on the external allocated parking spaces and will not result in any impact on the adjoining residential zone.

It is considered that the inclusions of the mezzanine assists the overall operation of the unit in meeting the objectives and intentions for the site. Numerical provisions such as floor space ratios are considered to be in force as a guide to achieve the objectives of the control. In this instance the objectives of the control are achieved through, despite the increase in floor area.

DRAFT CONDITIONS DA-2019/1034

Approved Plans and Specifications

- 1) The development shall be implemented substantially in accordance with the details and any details on

Site Plan A02 Rev A dated September 2018 prepared by Cokeworks Design

Floor Plans A03 Rev A dated September 2018 prepared by Cokeworks Design

and with any supporting information received, except as amended by the conditions specified and imposed hereunder. The plans and specifications approved by this Modification supersede plans and specifications previously approved where there are any inconsistencies.

General Matters

- 2) **Disability Discrimination Act 1992**
This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.
- 3) **Separate Consent Required for Advertising Signage**
This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development.
- 4) **Strata Plan**
The Strata Plan SP 78814 is to be amended, or new plan registered, to reflect the approved floor plan of the unit and encompassing industrial unit complex.

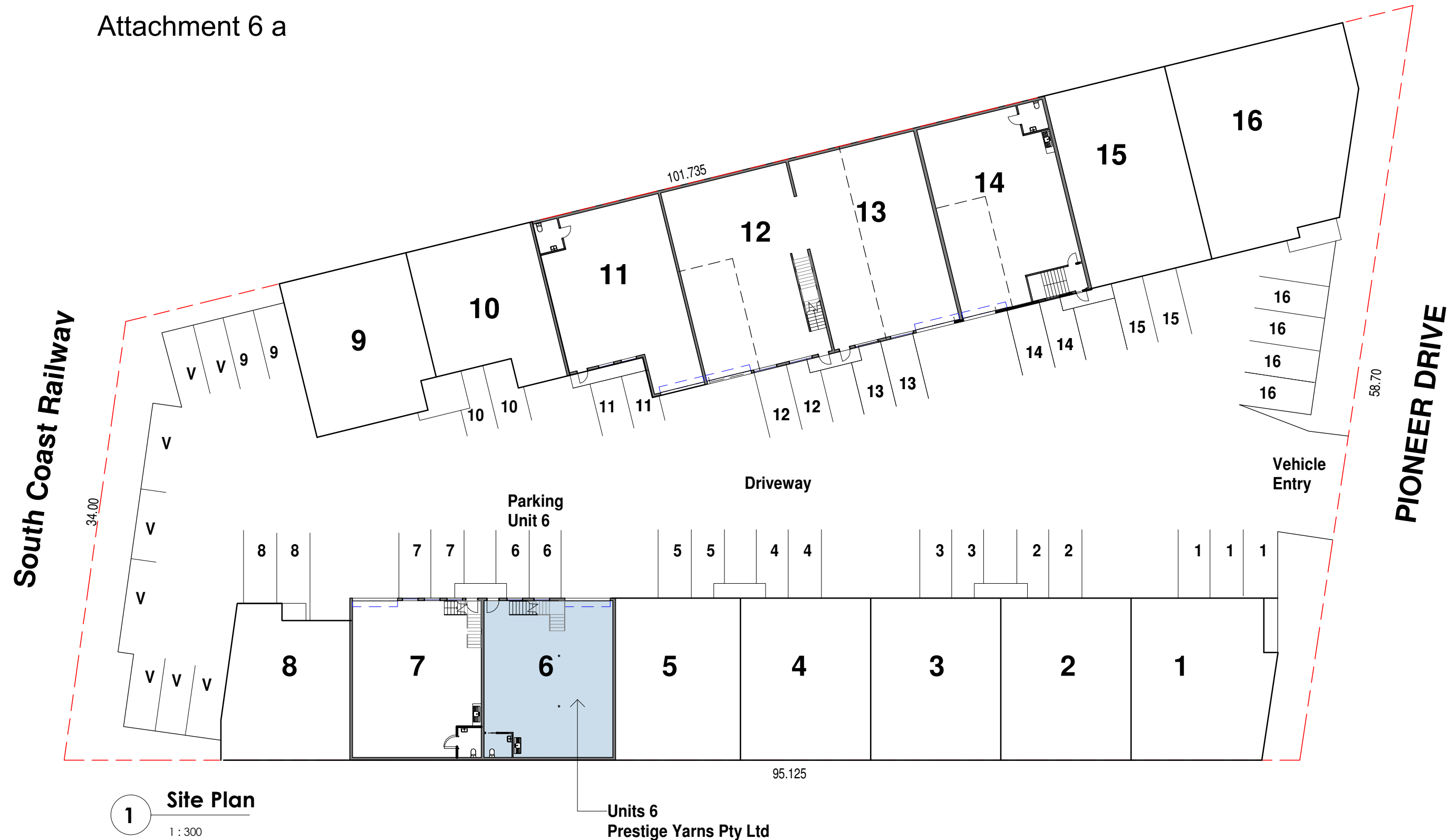
Operational Phases of the Development/Use of the Site

- 5) **Use of Areas within Unit**
Areas shown for use as Storage or Loading, Unloading or Servicing are to be limited to the stated use and not to be used for other business or industrial activities.
- 6) **Use of common areas**
Business and industrial activities are to take place within the unit. No business or industrial activities are to take place outside of the unit or within common driveway areas.
- 7) **Staff Numbers**
A maximum of two (2) staff are to be onsite at the premises at any one time.
- 8) **Restricted Hours of Operation**
The hours of operation for the development shall be restricted to:
 - Monday to Saturday: 0700 – 1800
Any extension to the approved hours of operation will require separate Council approval.
- 9) **Restricted Delivery Hours**
The delivery of service trucks shall be limited to 6.30 am to 9.00 pm daily, Mondays to Fridays and 8.00 am to 5.00 pm Saturdays only. Any alteration to the approved delivery hours will require the separate approval of Council.
- 10) **Storage of Goods and Materials**
All goods, materials and equipment shall be stored within the building and no part of the land shall be used for purposes of storage.

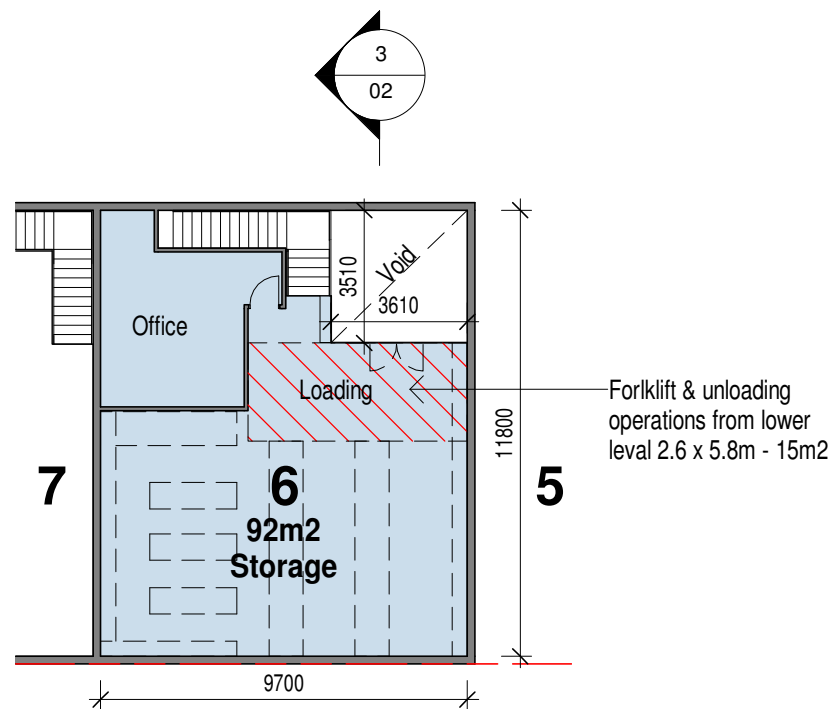
- 11) **No Display of Goods and Materials Outside Premises**
The placement of any cabinet, display stand, racks or any other means of displaying goods, whether or not for sale shall not be located on any property boundary, road reserve or outside the premises.
- 12) **Restriction on Placement of Storage Racks, Cabinets, Pallets etc**
The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.
- 13) **Noise Restrictions on Industrial Development**
The noise ($L_{Aeq} (15min)$) emanating from industrial developments must not exceed 5 dB(A) above the background noise level ($L_{A90} (15min)$) of the area at any boundary of the land.
- 14) **Loading/Unloading Operations/Activities**
All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.

DRAFT

Attachment 6 a

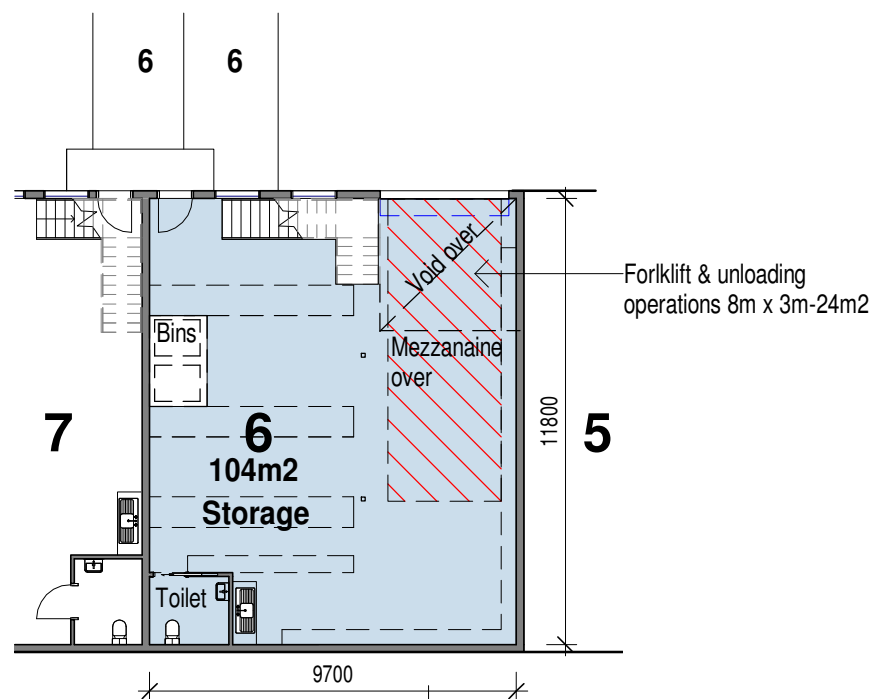


No	AMENDMENT	DATE	ron forbes building design 14 BALFOUR ROAD AUSTINMER NSW 2515 TEL:0420 323 060 EMAIL:ronforbes@1earth.net		PROJECT TITLE 8-10 Pioneer Drive, BELLAMBI NSW APPLICATION FOR USE OF BUILDING UNIT 6	Drawing No. 01
			SCALE : 1 : 300 DATE : 23-07-2019 DRAWN : RF	CLIENT : D. McLearie D. McLearie	DRAWING NAME Site Plan	Amendment A



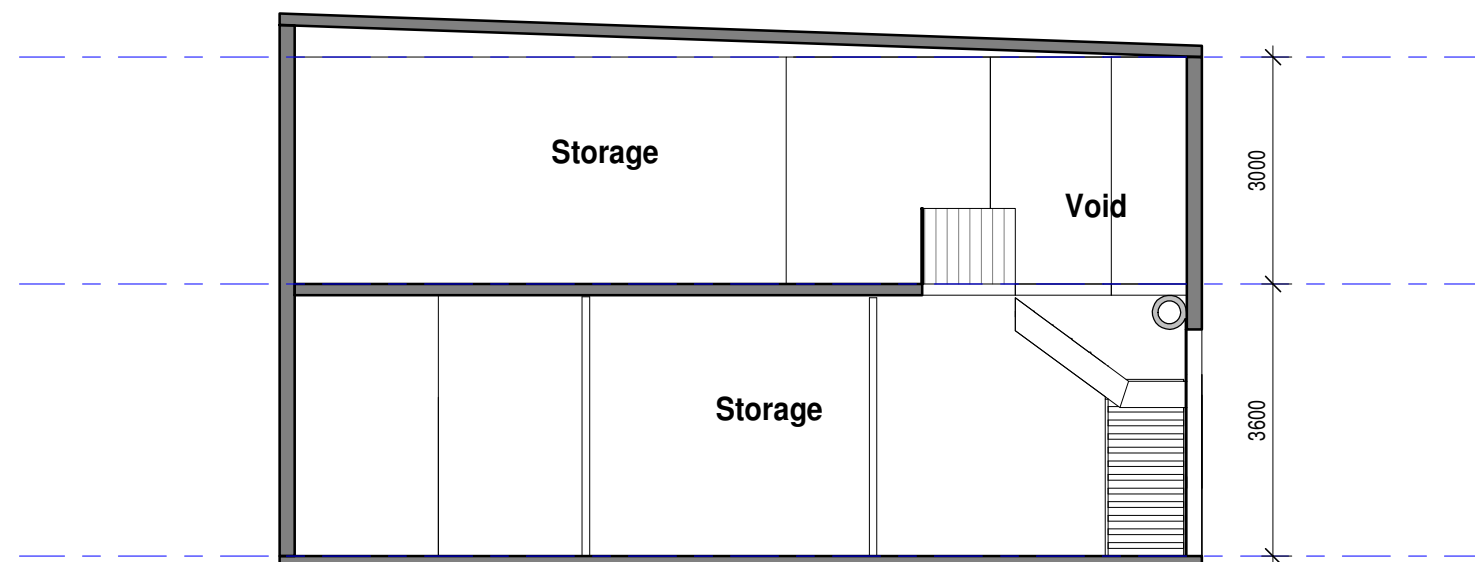
2 Mezzanine Plan Unit 6

1 : 200



1 Ground Floor Unit 6

1 : 200



3 Section for Unit 6

1 : 100

INFORMATION SCHEDULE

UNITS 6

Ground Floor	104m2
Loading Operations	39m2
Mezzanine Floor	95m2
Loading Mezzanine	15m2

USAGE:

Unit 6
Prestige Yarns Pty Ltd
Hand knitting yarn 7 accessories



No	AMENDMENT	DATE	ron forbes building design 14 BALFOUR ROAD AUSTINMER NSW 2515 TEL:0420 323 060 EMAIL:ronforbes@1earth.net		PROJECT TITLE 8-10 Pioneer Drive, BELLAMBI NSW APPLICATION FOR USE OF BUILDING UNIT 6	Drawing No.
			SCALE : As indicated DATE : 23-07-2019 DRAWN : RF	CLIENT : D. McLearie D. McLearie	DRAWING NAME Units 6 Layout & Section	02
						Amendment A

1.0 INTRODUCTION

Clause 4.6 of WLEP 2009 sets out the procedure to be followed by applicants for consent, Council, and the Director-General of Planning in requesting, assessing and determining an application for development that involves a contravention of a development standard.

The objectives of clause 4.6 are stated as:-

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

This submission has been prepared in accordance with the provisions of clause 4.6 and is submitted for Council's consideration and assessment and the Director-General's concurrence (where required).

1.1 Subject Site

The subject site is an industrial unit within an industrial complex occupying land on the western side of Pioneer Drive (north of Bellambi Lane) at Woonona. The subject site is known as Lot 6 in Strata Plan No.78814 No.6/8 Pioneer Drive. The 'parent' lot is Lot 204 in Deposited Plan No.776457, with an area of 4,361m².

The subject site contains two (2) tilt-up concrete panel industrial buildings – one positioned against the southern boundary of the site and the other against the northern boundary. The area between the buildings consists of a concrete-paved access driveway, car parking and manoeuvring area.

The site is zoned IN2 Light Industrial under the provisions of Wollongong Local Environmental Plan 2009 (WLEP 2009).

1.2 Development Proposal

The development proposal seeks Council's consent for the retention of the constructed mezzanine floor within Unit 6 and for the continued use of that unit as a warehouse and distribution centre for yarn and accessories.

2.0 DEVELOPMENT STANDARD TO BE VARIED

Clause 4.4 of WLEP 2009 relates to floor space ratio (FSR) and provides that “the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map”. The extract (below) from the *Floor Space Ratio Map* indicates that a FSR of 0.5:1 applies to the subject site.



Source www.wollongong.nsw.gov.au

The existing approved development on the site has a gross floor area (GFA) of 2,229.25m², representing an FSR of 0.511:1. The development proposal for Unit 6 will add a further 68m² of GFA attributable to the construction of the 92m² mezzanine floor level, less the 24m² dedicated loading bay. The proposed GFA figures are shown below:-

Component	GFA
Original Approved Development (DA-2004/1593)	2,180m ²
Approved Mezzanine Floor (Unit 2) (DA-2018/1067)	49.25m ²
Constructed Mezzanine Floor (Unit 6)	92m ²
Loading/Unloading Bay	- 24m ²
TOTAL	2,297.25m²

As the site has an area of 4,361m², this equates to an FSR of 0.526:1, representing a breach of the maximum allowable FSR in the order of 5.3% (or 3% above the current breach).

In addition to this current proposal for Unit 6 (at the time of writing) Council is also considering a development application for the retention of a mezzanine in Unit 9 (DA-2019/951), and a further proposal for mezzanines in Units 7, 12, 13 and 14 has also been submitted. The cumulative effect of all of these proposals on the GFA of the development on the site is set out in the table below:-

Building Component	Gross Floor Area (m ²)
Original Development (DA-2004/1593)	2,180
DA-2018/1067 (<i>Unit 2 - approved</i>)	49.25
DA-2019/951 (<i>Unit 9 - under assessment</i>)	95
Unit 6 Proposal (<i>this DA</i>)	68
Unit 7, 12, 13 & 14 Proposal (<i>related DA</i>)	212
TOTAL GFA	2,604.25

If all of the current proposals under assessment are approved, the resultant FSR will be 0.597:1.

The FSR development standard is not expressly excluded from the operation of clause 4.6, and accordingly Council is able to exercise flexibility in the application of the 0.5:1 maximum FSR development standard in accordance with that clause.

3.0 JUSTIFICATION IN SUPPORT OF THE CONTRAVENTION

Clause 4.6(3) of WLEP 2009 requires that an application involving a contravention of a development standard must be accompanied by a written request from the applicant that seeks to justify the contravention by demonstrating that compliance with the development standard is unreasonable or unnecessary under the circumstances of the case, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

3.1 The Development Standard is Unreasonable or Unnecessary

Typically, the method by which compliance with a development standard is established as unreasonable or unnecessary is by proving that the underlying objectives of the development standard are achieved. However, Preston J in *Wehbe v Pittwater Council (2007) NSWLEC 827* identified to four (4) other means by which it is possible to establish that compliance is unreasonable or unnecessary as follows:-

- (a) establish that the “*underlying objective or purpose is not relevant to the development*” and consequently compliance is unnecessary;
- (b) establish that the “*underlying objective or purpose would be defeated or thwarted if compliance was required*”, and therefore compliance is unreasonable;

- (c) establish that the *“development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard”*, therefore compliance is both unreasonable and unnecessary; or
- (d) establish that *“the zoning of particular land’ was ‘unreasonable or inappropriate’ so that ‘a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land”*, and therefore compliance with the standard is unreasonable and unnecessary.

Strict compliance with the FSR development standard is considered to be unreasonable and unnecessary in this instance as the existing approved development on the site has an FSR of 0.511:1. To comply would require the demolition of parts of the existing approved building, which is not considered to be a reasonable option in this case.

The strict application of the 0.5:1 FSR development standard is considered to be unreasonable and unnecessary under the circumstances of the case for the following reasons:-

- The existing approved development on the site exceeds the maximum allowable FSR and therefore, any increase GFA, no matter how minor, cannot comply with the applicable FSR.
- Despite the non-compliance with the FSR development standard the underlying objectives of the development standard are achieved (refer to 4.1 below).
- Given that the existing development exceeds the maximum allowable FSR, and the objectives of the development standard are achieved, insisting on strict compliance with the development standard is both unreasonable and unnecessary in this instance.
- To the extent that the FSR development standard seeks to control the height, bulk and scale of development, it is noted that the constructed mezzanine is located entirely within the current building footprint and entirely within the cubic space of the existing building. Accordingly, there will be no change to the current building’s height, bulk or scale.

3.2 There are Sufficient Environmental Planning Grounds

The proposed construction works will not have any adverse environmental impacts, in particular:-

- The changes to the building’s GFA take place within the existing building footprint and within the building’s existing cubic space. Therefore, the proposal will not result in any increase in building height, bulk or scale and will not reduce existing setbacks.
- As the proposed GFA changes are confined to within the existing building footprint, there will be no changes to the landscaped area at the front of the site. The maintenance of the landscaping across the site’s frontage, together with the

absence of any change to the physical appearance of the building, will retain the current the streetscape presentation of the development.

4.0 PUBLIC INTEREST

In considering a development proposal that contravenes a development standard Council must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and those of the relevant zone.

4.1 Objectives of the Development Standard

The objectives of the FSR development standard are identified in clause 4.4 of WLEP 2009 as:-

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- (c) to ensure buildings are compatible with the bulk and scale of the locality.*

The development proposal is considered to be consistent with these objectives as it:-

- achieves an appropriate correlation between the size of the building and the size of the development site, particularly having regard to the form, scale and GFA of the existing approved development on the site, the provision of adequate car parking and manoeuvring, and the maintenance of landscaped areas;
- will not generate any significant additional demands on service infrastructure (such as water, sewerage, gas, or electricity);
- will not alter the means of accessing the property from Pioneer Drive and (as outlined in the Statement of Environmental Effects) there will be no significant increase in the number of on-site car parking spaces required or the volume of traffic expected generated; and
- results in no physical changes to the external appearance of the existing building, which has a bulk and scale that is compatible with other buildings in the locality (including the recently constructed building immediately to the south).

4.2 Objectives of the Zone

The subject site is zoned IN2 Light Industrial under the provisions of WLEP 2009. The objectives of the IN2 zone are stated as:-

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.*

The development proposal is considered to be consistent with the stated objectives as the additional floor area within Unit 6 will facilitate the use of that unit as a warehouse and distribution centre for knitting yarns and knitting accessories, through the provision of storage and office space and the inclusion of a sheltered loading/unloading bay. It is considered that the proposed development will not have any adverse effects on existing industrial uses conducted from other premises within the complex and will promote the economic and employment growth of Wollongong.

5.0 OTHER MATTERS

In determining whether or not to grant concurrence to a development proposal that involves the contravention of a development standard, the Director-General of Planning must consider whether the contravention of the development standard raises any matters of State or regional planning significance; and, the public benefit of maintaining the development standard.

5.1 State and Regional Planning Matters

The proposed contravention of the 0.5:1 FSR does not raise any State or Regional planning matters. The proposed development is consistent with all relevant State Environmental Planning Policies. The proposal is not inconsistent with the *Illawarra-Shoalhaven Regional Plan* (2015).

5.2 Public Benefit

It is considered that, having regard to the circumstances of the case, there is no public benefit to be gained by insisting upon strict compliance with the 0.5:1 FSR

development standard. The existing approved development on the site has an FSR of 0.511:1 and the mezzanine within Unit 6 will only increase this to 0.526:1 (an increase of 3%).

The changes to the building's GFA all take place within the confines of the existing building and will have no impact on the public's perception of the existing built form of the development.

Accordingly, there is no benefit to be gained by insisting on strict compliance with the FSR development standard and preventing the development proposal.

6.0 CONCLUSION

Although the existing approved development on the site exceeds the maximum allowable FSR, the constructed mezzanine floor level within Unit 6 will exacerbate the breach of the FSR development standard and has been reviewed having regard to the provisions of clause 4.6 of WLEP 2009. As a result of this review, it is concluded that the proposed development will be consistent with the objectives of the development standard and those for the IN2 zone.

Strict compliance with the maximum FSR development standard is considered to be unreasonable and unnecessary in the circumstances as the existing approved development on the site already has an FSR which is more than the maximum allowable. The absence of any deleterious environmental or amenity impacts is supporting proof that there are sufficient environmental planning grounds to support the variation. The development proposal is not inconsistent with State or Regional planning matters and will not conflict with the public interest.

For the reasons outlined in this submission, the variation of the FSR development standard to allow the proposed development is recommended for Council's support and approval.

DRAFT CONDITIONS DA-2019/1054

Approved Plans and Specifications

- 1) The development shall be implemented substantially in accordance with the details and any details on

Site Plan Drawing No.01 Amendment A dated 23 July 2019 prepared by Ron Forbes Building Design

Units 6 Layout & Section Plan Drawing No.02 Amendment A dated 23 July 2019 prepared by Ron Forbes Building Design

and with any supporting information received, except as amended by the conditions specified and imposed hereunder. The plans and specifications approved by this Modification supersede plans and specifications previously approved where there are any inconsistencies.

General Matters

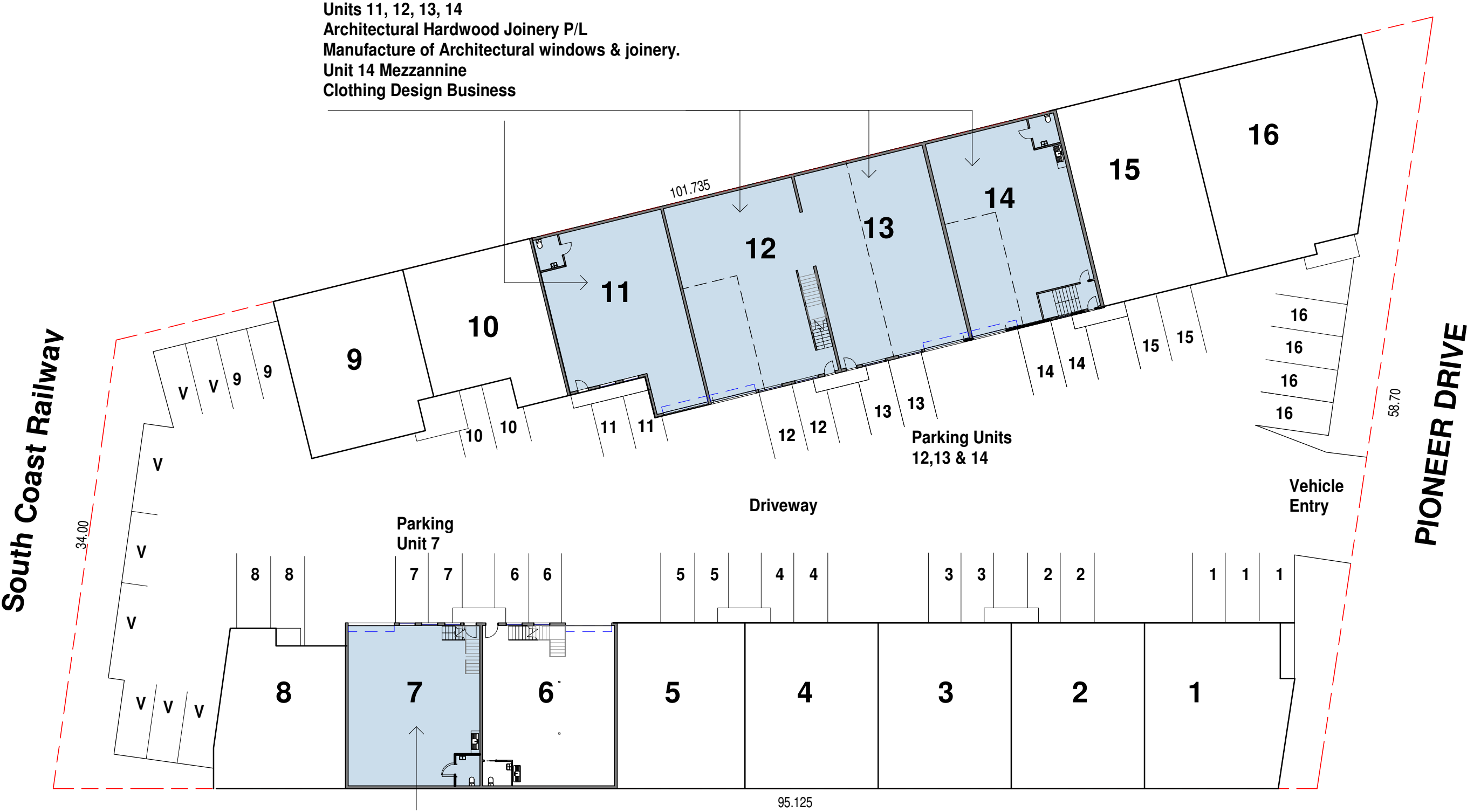
- 2) **Disability Discrimination Act 1992**
This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.
- 3) **Separate Consent Required for Advertising Signage**
This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development.
- 4) **Strata Plan**
The Strata Plan SP 78814 is to be amended, or new plan registered, to reflect the approved floor plan of the unit and encompassing industrial unit complex.

Operational Phases of the Development/Use of the Site

- 5) **Use of Areas within Unit**
Areas shown for use as Storage or Loading, Unloading or Servicing are to be limited to the stated use and not to be used for other business or industrial activities.
- 6) **Use of common areas**
Business and industrial activities are to take place within the unit. No business or industrial activities are to take place outside of the unit or within common driveway areas.
- 7) **Staff Numbers**
A maximum of six (6) staff are to be onsite at the premises at any one time.
- 8) **Restricted Hours of Operation**
The hours of operation for the development shall be restricted to:
 - Monday to Friday: 0700 – 1730
 - Saturday: 0700 - 1300
Any extension to the approved hours of operation will require separate Council approval.
- 9) **Restricted Delivery Hours**
The delivery of service trucks shall be limited to 6.30 am to 9.00 pm daily, Mondays to Fridays and 8.00 am to 5.00 pm Saturdays only. Any alteration to the approved delivery hours will require the separate approval of Council.

- 10) **Storage of Goods and Materials**
All goods, materials and equipment shall be stored within the building and no part of the land shall be used for purposes of storage.
- 11) **No Display of Goods and Materials Outside Premises**
The placement of any cabinet, display stand, racks or any other means of displaying goods, whether or not for sale shall not be located on any property boundary, road reserve or outside the premises.
- 12) **Restriction on Placement of Storage Racks, Cabinets, Pallets etc**
The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.
- 13) **Noise Restrictions on Industrial Development**
The noise ($L_{Aeq} (15min)$) emanating from industrial developments must not exceed 5 dB(A) above the background noise level ($L_{A90} (15min)$) of the area at any boundary of the land.
- 14) **Loading/Unloading Operations/Activities**
All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.



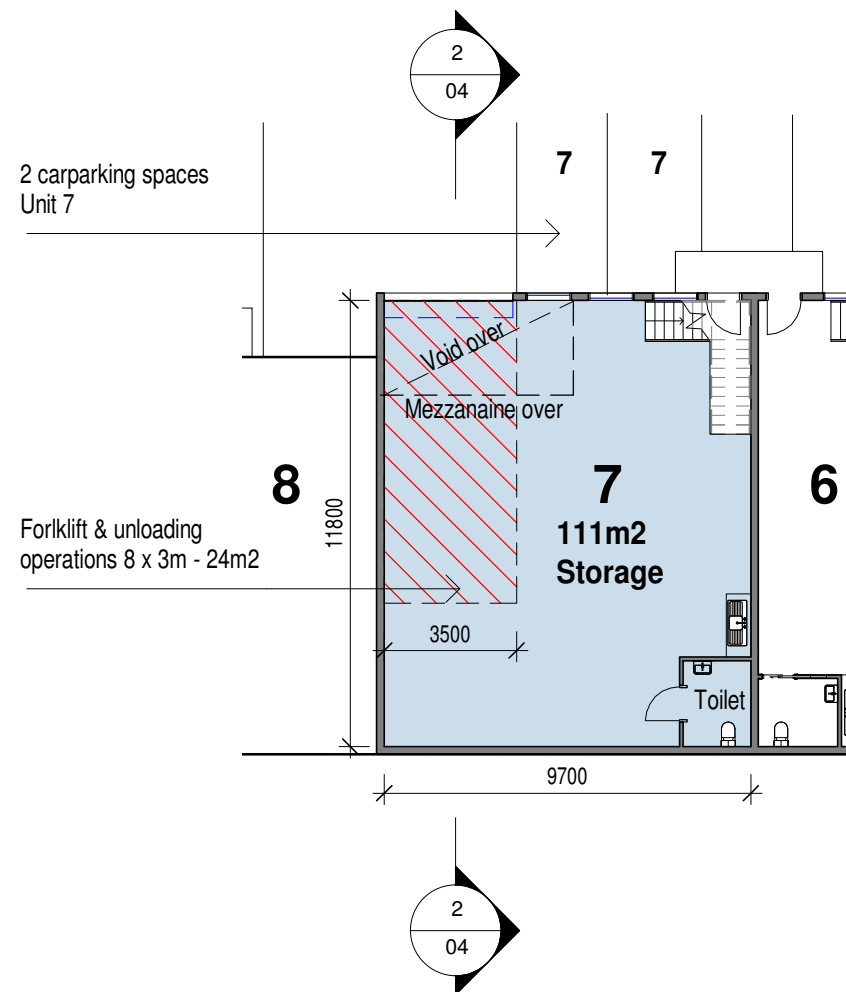
1 Site Plan
1 : 300

Units 7
Architectural Hardwood Joinery P/L
Manufacture of Architectural
windows & joinery.

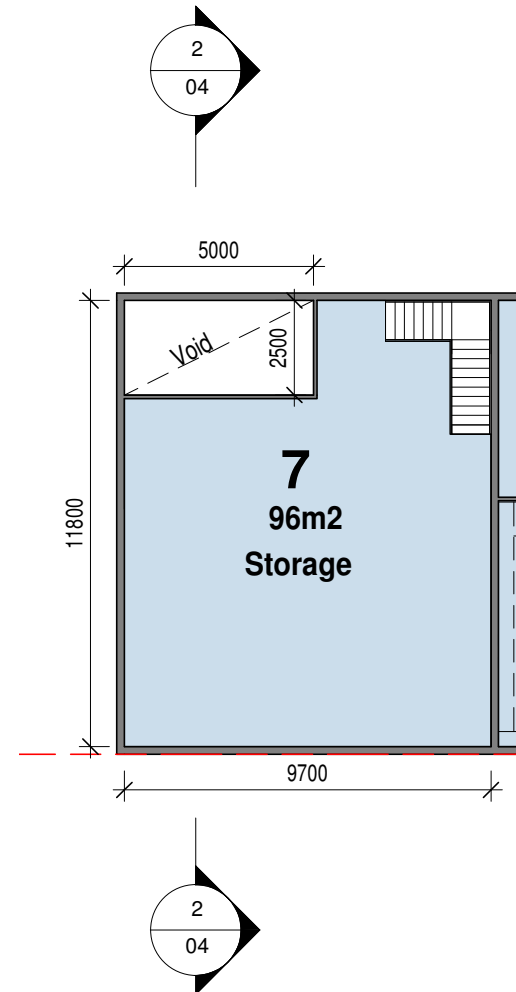
No	AMENDMENT	DATE	ron forbes building design 14 BALFOUR ROAD AUSTINMER NSW 2515 TEL:0420 323 060 EMAIL:ronforbes@1earth.net		PROJECT TITLE 8-10 Pioneer Drive, BELLAMBI NSW APPLICATION FOR USE OF BUILDING UNITS 7, 11, 12, 13, 14	Drawing No. 01
			SCALE : 1 : 300 DATE : 23-07-2019 DRAWN : RF	CLIENT : R. Chapman	DRAWING NAME Site Plan	Amendment A



No	AMENDMENT	DATE	ron forbes building design 14 BALFOUR ROAD AUSTINMER NSW 2515 TEL:0420 323 060 EMAIL:ronforbes@1earth.net		PROJECT TITLE 8-10 Pioneer Drive, BELLAMBI NSW APPLICATION FOR USE OF BUILDING UNITS 7, 11, 12, 13, 14	Drawing No.
B	Area names altered to Units 13 & 14	05-12-2019	SCALE : 1 : 200 DATE : 23-07-2019 DRAWN : RF		DRAWING NAME Units 11, 12, 13 & 14 Layouts	02
			CLIENT : R. Chapman			Amendment B



1 Ground Floor Unit 7
1 : 200



2 Mezzanine Floor Plans Unit 7
1 : 200

INFORMATION SCHEDULE

UNITS 7	
Ground Floor	111m2
Loading Operations	24m2
Mezzanine Floor	96m2

UNITS 11	
Ground Floor	123m2
Loading Operations	24m2

UNITS 12	
Ground Floor	137m2
Loading Operations	24m2
Mezzanine Floor	88m2

UNITS 13	
Ground Floor	142m2
Loading Operations	24m2
Mezzanine Floor	53m2

UNITS 14	
Ground Floor	133m2
Loading Operations	24m2
Mezzanine Floor	95m2

USAGE:
Units 11, 12, 13, 14 & 7
Architectural Hardwood Joinery P/L
Manufacture of Architectural windows & joinery.

Unit 14 Mezzanine
Clothing Design Business



No AMENDMENT DATE



ron forbes building design
14 BALFOUR ROAD AUSTINMER NSW 2515
TEL:0420 323 060 EMAIL:ronforbes@1earth.net

SCALE : 1 : 200
DATE : 23-07-2019
DRAWN : RF

CLIENT :
R. Chapman
D. McLearie

PROJECT TITLE
8-10 Pioneer Drive, BELLAMBI NSW
APPLICATION FOR USE OF BUILDING UNITS 7, 11, 12, 13, 14

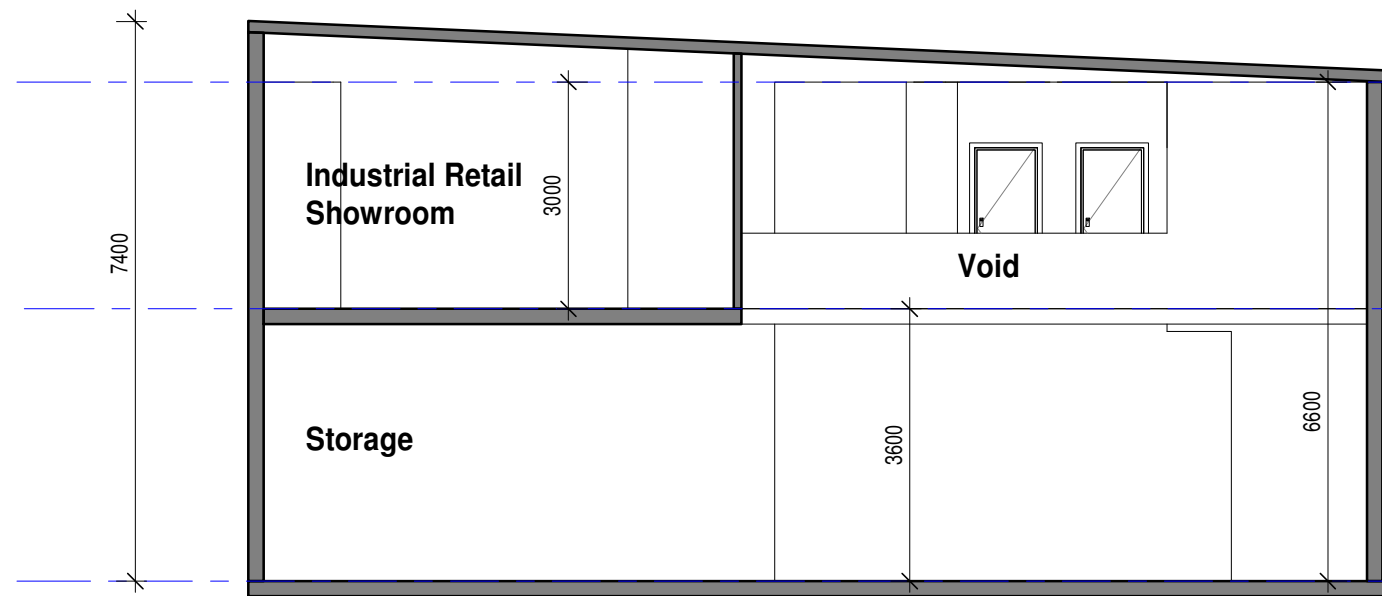
DRAWING NAME
Unit 7 Layout

Drawing No.

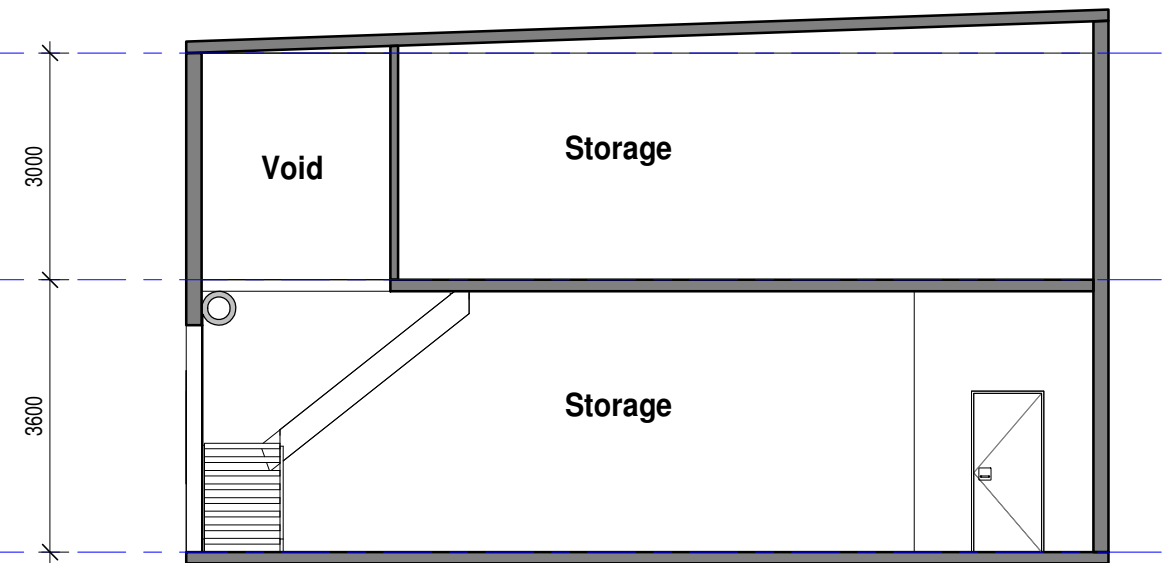
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Amendment

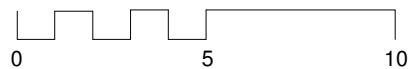
A



1 Typical Section for Units 12,13 & 14
 1 : 100
 Unit 11 similar but with no Mezzanine



2 Section Unit 7
 1 : 100



No	AMENDMENT	DATE	ron forbes building design 14 BALFOUR ROAD AUSTINMER NSW 2515 TEL:0420 323 060 EMAIL:ronforbes@1earth.net		PROJECT TITLE 8-10 Pioneer Drive, BELLAMBI NSW APPLICATION FOR USE OF BUILDING UNITS 7, 11, 12, 13, 14	Drawing No. 04
			SCALE : 1 : 100 DATE : 23-07-2019 DRAWN : RF	CLIENT : R. Chapman D. McLearie	DRAWING NAME Typical Sections	Amendment A

1.0 INTRODUCTION

Clause 4.6 of WLEP 2009 sets out the procedure to be followed by applicants for consent, Council, and the Director-General of Planning in requesting, assessing and determining an application for development that involves a contravention of a development standard.

The objectives of clause 4.6 are stated as:-

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

This submission has been prepared in accordance with the provisions of clause 4.6 and is submitted for Council's consideration and assessment and the Director-General's concurrence (where required).

1.1 Subject Site

The subject site is an industrial unit within an industrial complex occupying land on the western side of Pioneer Drive (north of Bellambi Lane) at Woonona. The subject site is known as Lot 6 in Strata Plan No.78814 No.6/8 Pioneer Drive. The 'parent' lot is Lot 204 in Deposited Plan No.776457, with an area of 4,361m².

The subject site contains two (2) tilt-up concrete panel industrial buildings – one positioned against the southern boundary of the site and the other against the northern boundary. The area between the buildings consists of a concrete-paved access driveway, car parking and manoeuvring area.

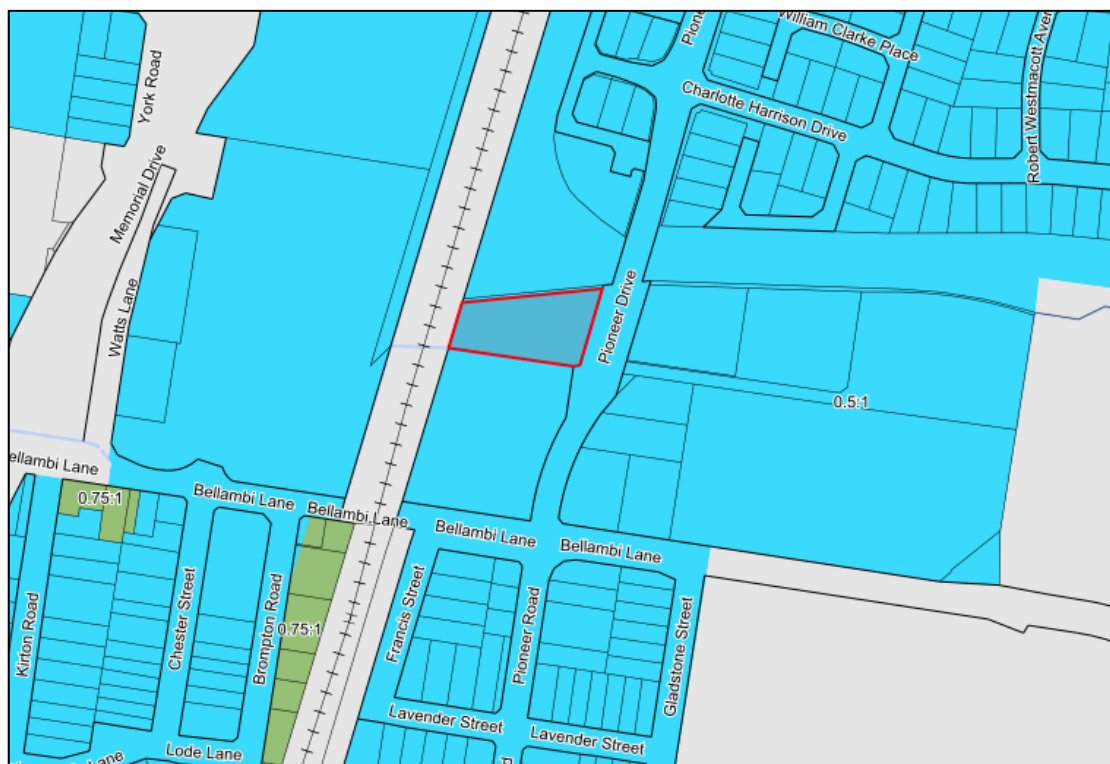
The site is zoned IN2 Light Industrial under the provisions of Wollongong Local Environmental Plan 2009 (WLEP 2009).

1.2 Development Proposal

The development proposal seeks Council's consent for the retention of the constructed mezzanine floors within Units 7, 12, 13 and 14 and for the continued use of those units, collectively with Unit 11, as a joinery for the processing and manufacture of timber doors, windows and timber products, together with an associated showroom.

2.0 DEVELOPMENT STANDARD TO BE VARIED

Clause 4.4 of WLEP 2009 relates to floor space ratio (FSR) and provides that “*the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map*”. The extract (below) from the *Floor Space Ratio Map* indicates that a FSR of 0.5:1 applies to the subject site.



Source www.wollongong.nsw.gov.au

The existing approved development on the site has a gross floor area (GFA) of 2,229.25m², representing an FSR of 0.511:1. The development proposal for Units 7, 12, 13 and 14 will add a further 212m² of GFA attributable to the construction of the 332m² mezzanine floor levels, less the 120m² dedicated loading bays. The proposed GFA figures are shown below:-

Component	GFA
Original Approved Development (DA-2004/1593)	2,180m ²
Approved Mezzanine Floor (Unit 2) (DA-2018/1067)	49.25m ²
Constructed Mezzanine Floors (Units 7, 12, 13 & 14)	332m ²
Loading/Unloading Bays	- 120m ²
TOTAL	2,441.25m²

As the site has an area of 4,361m², this equates to an FSR of 0.559:1, representing a breach of the maximum allowable FSR in the order of 11.9% (or 9.3% above the current breach).

In addition to this current proposal for Units 7, 12, 13 and 14 (at the time of writing) Council is also considering a development application for the retention of a mezzanine in Unit 9 (DA-2019/951), and a further proposal for a mezzanine in Unit 6 has also been submitted. The cumulative effect of all of these proposals on the GFA of the development on the site is set out in the table below:-

Building Component	Gross Floor Area (m ²)
Original Development (DA-2004/1593)	2,180
DA-2018/1067 (<i>Unit 2 - approved</i>)	49.25
DA-2019/951 (<i>Unit 9 - under assessment</i>)	95
Unit 7, 12, 13 & 14 Proposal (<i>this DA</i>)	212
Unit 6 Proposal (<i>related DA</i>)	68
TOTAL GFA	2,604.25

If all of the current proposals under assessment are approved, the resultant FSR will be 0.597:1.

The FSR development standard is not expressly excluded from the operation of clause 4.6, and accordingly Council is able to exercise flexibility in the application of the 0.5:1 maximum FSR development standard in accordance with that clause.

3.0 JUSTIFICATION IN SUPPORT OF THE CONTRAVENTION

Clause 4.6(3) of WLEP 2009 requires that an application involving a contravention of a development standard must be accompanied by a written request from the applicant that seeks to justify the contravention by demonstrating that compliance with the development standard is unreasonable or unnecessary under the circumstances of the case, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

3.1 The Development Standard is Unreasonable or Unnecessary

Typically, the method by which compliance with a development standard is established as unreasonable or unnecessary is by proving that the underlying objectives of the development standard are achieved. However, Preston J in *Wehbe v Pittwater Council (2007) NSWLEC 827* identified to four (4) other means by which it is possible to establish that compliance is unreasonable or unnecessary as follows:-

- (a) establish that the “*underlying objective or purpose is not relevant to the development*” and consequently compliance is unnecessary;
- (b) establish that the “*underlying objective or purpose would be defeated or thwarted if compliance was required*”, and therefore compliance is unreasonable;

- (c) establish that the *“development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard”*, therefore compliance is both unreasonable and unnecessary; or
- (d) establish that *“the zoning of particular land’ was ‘unreasonable or inappropriate’ so that ‘a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land”*, and therefore compliance with the standard is unreasonable and unnecessary.

Strict compliance with the FSR development standard is considered to be unreasonable and unnecessary in this instance as the existing approved development on the site has an FSR of 0.511:1. To comply would require the demolition of parts of the existing approved building, which is not considered to be a reasonable option in this case.

The strict application of the 0.5:1 FSR development standard is considered to be unreasonable and unnecessary under the circumstances of the case for the following reasons:-

- The existing approved development on the site exceeds the maximum allowable FSR and therefore, any increase GFA, no matter how minor, cannot comply with the applicable FSR.
- Despite the non-compliance with the FSR development standard the underlying objectives of the development standard are achieved (refer to 4.1 below).
- Given that the existing development exceeds the maximum allowable FSR, and the objectives of the development standard are achieved, insisting on strict compliance with the development standard is both unreasonable and unnecessary in this instance.
- To the extent that the FSR development standard seeks to control the height, bulk and scale of development, it is noted that the constructed mezzanine is located entirely within the current building footprint and entirely within the cubic space of the existing building. Accordingly, there will be no change to the current building’s height, bulk or scale.

3.2 There are Sufficient Environmental Planning Grounds

The proposed construction works will not have any adverse environmental impacts, in particular:-

- The changes to the building’s GFA take place within the existing building footprint and within the building’s existing cubic space. Therefore, the proposal will not result in any increase in building height, bulk or scale and will not reduce existing setbacks.
- As the proposed GFA changes are confined to within the existing building footprint, there will be no changes to the landscaped area at the front of the site. The maintenance of the landscaping across the site’s frontage, together with the

absence of any change to the physical appearance of the building, will retain the current the streetscape presentation of the development.

4.0 PUBLIC INTEREST

In considering a development proposal that contravenes a development standard Council must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and those of the relevant zone.

4.1 Objectives of the Development Standard

The objectives of the FSR development standard are identified in clause 4.4 of WLEP 2009 as:-

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- (c) to ensure buildings are compatible with the bulk and scale of the locality.*

The development proposal is considered to be consistent with these objectives as it:-

- achieves an appropriate correlation between the size of the building and the size of the development site, particularly having regard to the form, scale and GFA of the existing approved development on the site, the provision of adequate car parking and manoeuvring, and the maintenance of landscaped areas;
- will not generate any significant additional demands on service infrastructure (such as water, sewerage, gas, or electricity);
- will not alter the means of accessing the property from Pioneer Drive and (as outlined in the Statement of Environmental Effects) there will be no significant increase in the number of on-site car parking spaces required or the volume of traffic expected generated; and
- results in no physical changes to the external appearance of the existing buildings, which has a bulk and scale that is compatible with other buildings in the locality (including the recently constructed building immediately to the south).

4.2 Objectives of the Zone

The subject site is zoned IN2 Light Industrial under the provisions of WLEP 2009. The objectives of the IN2 zone are stated as:-

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.*

The development proposal is considered to be consistent with the stated objectives as the additional floor areas within Units 7, 12, 13 and 14 will facilitate the use of those units, collectively with Unit 11, as a joinery for the processing and re-use of recycled hardwood timbers, with each unit serving a specific purpose in the process. It is considered that the proposed development will not have any adverse effects on existing industrial uses conducted from other premises within the complex and will promote the economic and employment growth of Wollongong.

5.0 OTHER MATTERS

In determining whether or not to grant concurrence to a development proposal that involves the contravention of a development standard, the Director-General of Planning must consider whether the contravention of the development standard raises any matters of State or regional planning significance; and, the public benefit of maintaining the development standard.

5.1 State and Regional Planning Matters

The proposed contravention of the 0.5:1 FSR does not raise any State or Regional planning matters. The proposed development is consistent with all relevant State Environmental Planning Policies. The proposal is not inconsistent with the *Illawarra-Shoalhaven Regional Plan* (2015).

5.2 Public Benefit

It is considered that, having regard to the circumstances of the case, there is no public benefit to be gained by insisting upon strict compliance with the 0.5:1 FSR development standard. The existing approved development on the site has an FSR

of 0.511:1 and the mezzanines within Units 7, 12, 13 and 14 will increase this to 0.559:1 (an increase of 9.3%).

The changes to the building's GFA all take place within the confines of the existing buildings and will have no impact on the public's perception of the existing built form of the development.

Accordingly, there is no benefit to be gained by insisting on strict compliance with the FSR development standard and preventing the development proposal.

6.0 CONCLUSION

Although the existing approved development on the site exceeds the maximum allowable FSR, the constructed mezzanine floor levels within Units 7, 12, 13 and 14 will exacerbate the breach of the FSR development standard and has been reviewed having regard to the provisions of clause 4.6 of WLEP 2009. As a result of this review, it is concluded that the proposed development will be consistent with the objectives of the development standard and those for the IN2 zone.

Strict compliance with the maximum FSR development standard is considered to be unreasonable and unnecessary in the circumstances as the existing approved development on the site already has an FSR which is more than the maximum allowable. The absence of any deleterious environmental or amenity impacts is supporting proof that there are sufficient environmental planning grounds to support the variation. The development proposal is not inconsistent with State or Regional planning matters and will not conflict with the public interest.

For the reasons outlined in this submission, the variation of the FSR development standard to allow the proposed development is recommended for Council's support and approval.

DRAFT CONDITIONS DA-2019/1058

Approved Plans and Specifications

- 1) The development shall be implemented substantially in accordance with the details and any details on

Site Plan Drawing No.01 Amendment A dated 23 July 2019 prepared by Ron Forbes Building Design

Units 11, 12, 13 & 14 Layouts Drawing No.02 Amendment B dated 23 July 2019 prepared by Ron Forbes Building Design

Units 7 Layout Drawing No.03 Amendment A dated 23 July 2019 prepared by Ron Forbes Building Design

Typical Sections Drawing No.04 Amendment A dated 23 July 2019 prepared by Ron Forbes Building Design

and with any supporting information received, except as amended by the conditions specified and imposed hereunder. The plans and specifications approved by this Modification supersede plans and specifications previously approved where there are any inconsistencies.

General Matters

- 2) **Disability Discrimination Act 1992**
This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.
- 3) **Separate Consent Required for Advertising Signage**
This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development.
- 4) **Section 73 Certificate**
A Section 73 Certificate must be obtained prior to occupation of the development.
- 5) A minimum of three (3) bicycle wall hanger must be installed within the industrial unit to allow employees to securely store bicycles as per the Australian Standard AS2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.
- 6) **Strata Plan**
The Strata Plan SP 78814 is to be amended, or new plan registered, to reflect the approved floor plan of the unit and encompassing industrial unit complex.

Operational Phases of the Development/Use of the Site

- 7) **Use of Areas within Unit**
Areas shown for use as Storage or Loading, Unloading or Servicing are to be limited to the stated use and not to be used for other business or industrial activities.
- 8) **Use of common areas**
Business and industrial activities are to take place within the unit. No business or industrial activities are to take place outside of the unit or within common driveway areas.
- 9) **Staff Numbers**
A maximum of seven (7) staff are to be onsite at the premises at any one time.

10) **Restricted Hours of Operation**

The hours of operation for the development shall be restricted to:

- Monday to Friday: 0700 – 1730

Any extension to the approved hours of operation will require separate Council approval.

11) **Restricted Delivery Hours**

The delivery of service trucks shall be limited to 6.30 am to 9.00 pm daily, Mondays to Fridays and 8.00 am to 5.00 pm Saturdays only. Any alteration to the approved delivery hours will require the separate approval of Council.

12) **Storage of Goods and Materials**

All goods, materials and equipment shall be stored within the building and no part of the land shall be used for purposes of storage.

13) **No Display of Goods and Materials Outside Premises**

The placement of any cabinet, display stand, racks or any other means of displaying goods, whether or not for sale shall not be located on any property boundary, road reserve or outside the premises.

14) **Restriction on Placement of Storage Racks, Cabinets, Pallets etc**

The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.

15) **Noise Restrictions on Industrial Development**

The noise ($L_{Aeq}(15min)$) emanating from industrial developments must not exceed 5 dB(A) above the background noise level ($L_{A90}(15min)$) of the area at any boundary of the land.

16) **Loading/Unloading Operations/Activities**

All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.

17) **Suppression of Environmental Impacts**

Output from industrial processes including smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise is to be retained within the unit/s.



PUBLIC RESERVE

101.735

UNIT 12

UNIT 13

UNIT 14

UNIT 15

UNIT 16

UNIT 11

UNIT 10

UNIT 9

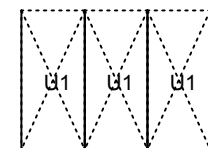
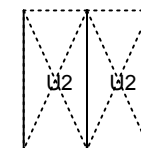
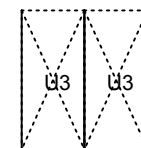
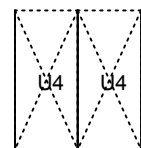
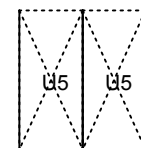
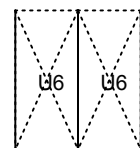
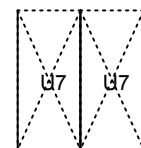
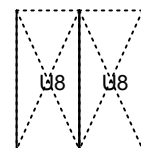
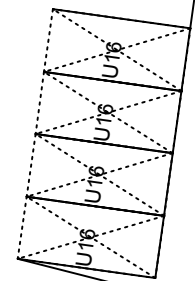
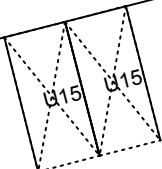
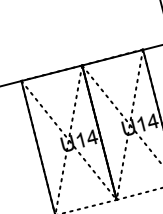
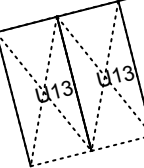
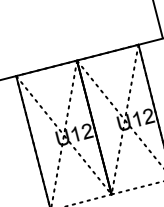
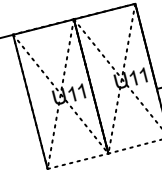
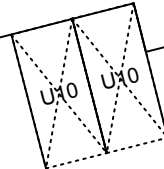
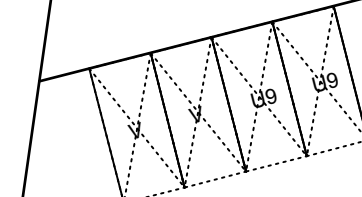
LOT 204
DP 776457
4361m²

58.700

PIONEER DRIVE

SOUTH COAST RAILWAY

34.000



UNIT 8

UNIT 7

UNIT 6

UNIT 5

UNIT 4

UNIT 3

UNIT 2

UNIT 1

95.125

SITE PLAN

SCALE 1:300 @A3

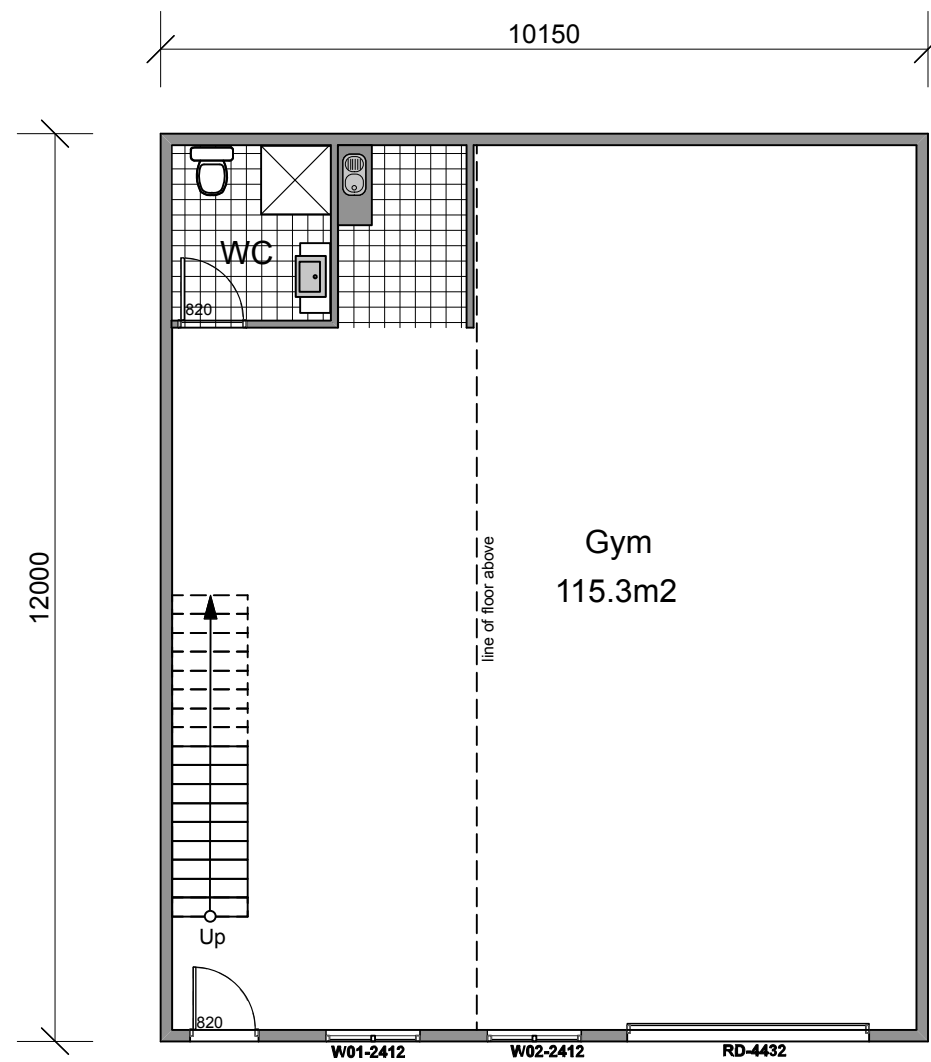
CLIENT:
KaraisteJOB ADDRESS:
3/8 PIONEER DRIVE, WOONONA

JOB NUMBER:	20180033
DATE:	18/10/2019
ISSUE:	A
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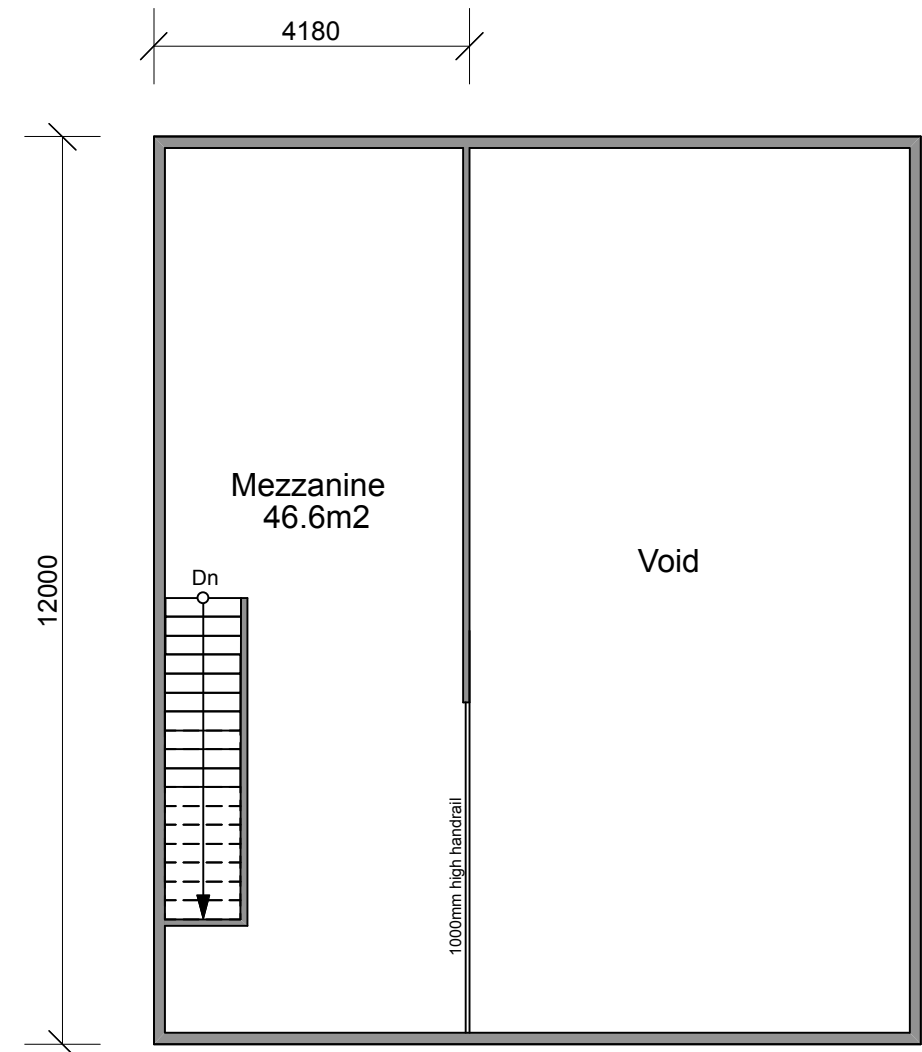
Phone 0403 939 193
www.ingenuityhomedesign.com.au
bryce@ingenuityhomedesign.com.au





LOWER FLOOR PLAN

SCALE 1:100 @A3



UPPER FLOOR PLAN

SCALE 1:100 @A3

CLIENT:
Karaiste

JOB ADDRESS:
3/8 PIONEER DRIVE, WOONONA

JOB NUMBER:	20180033
DATE:	18/10/2019
ISSUE:	A
SHEET 3 of 3	

bdaa
ACCREDITED
BUILDING DESIGNER

Phone 0403 939 193
www.ingenuityhomedesign.com.au
bryce@ingenuityhomedesign.com.au

Ingenuity
Home Design

5.1 WOLLONGONG LOCAL ENVIRONMENT PLAN 2009

LEP OBJECTIVE	STANDARD COMPLIANCE	COMMENTS	STATUS
2.1 Land use Zones – IN2 Light Industrial	Recreational Facilities (Indoor)		Complies
4.4 Floor space ratio	0.511:1		See Exception Statement

5.2 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER E3 – Car Parking

DCP SECTION	TITLE	COMMENTS	STATUS
Schedule 1	Industry	Requires 1 car space per 75m ² 2 spaces provided	Complies

6.0 EXCEPTION STATEMENT

Clause 4.4 of the *Wollongong Local Environmental Plan 2009* states,

“4.4 Floor space ratio

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

- (a) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
 - (b) to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
 - (c) to ensure buildings are compatible with the bulk and scale of the locality.*
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).”*

The original approved development (DA2004/1593) included a gross floor area of development of 2183m² which resulted in an FSR of 0.5:1. As shown on the submitted plans, a 46.1m² mezzanine has been constructed within the internal walls of the existing industrial unit. This results in an increase in floor space ratio of 0.011:1. Due to the minor increase in FSR, an exception is sought under Clause 4.6 of the LEP.

Clause 4.6 of the *Wollongong Local Environmental Plan 2009* states that the objectives of the clause are,

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

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

It is requested that Wollongong City Council support the variation as the increase in floor area is minor and wholly contained within the walls of the existing industrial unit resulting. The variation sought is approximately 1% and is minor in nature within the siting and context of the existing industrial development.

7.0 CONCLUSION

As shown in this Statement of Environmental Effects and supporting documentation, the proposal complies with all statutory and policy requirements. The proposed use is consistent with the scale and context of the existing surrounding built environment. The proposed development is permitted in IN2 Light Industrial zone under Wollongong Local Environmental Plan 2009 and is consistent with the objectives for the IN2 zone. The proposed development satisfies the numerical and performance-based requirements of Wollongong Development Control Plan 2009 and the Small Scale Industrial Development Fact Sheet.

No unreasonable environmental or amenity impacts will arise as a result of the development proposal and the proposed development will not adversely impact on the streetscape or adjoining property. The application is considered to be a logical and permissible use of the site. There are no constraints on the site, or adjoining sites, that render the proposed development unsuitable for this site. It is considered there are no matters that warrant refusal of the proposal on grounds of it being contrary to the public interest. It is therefore requested that the application be approved as submitted.

DRAFT CONDITIONS DA-2019/1177

Approved Plans and Specifications

- 1) The development shall be implemented substantially in accordance with the details and any details on

Site Plan Job 20180033 Issue A dated 18 October 2019 prepared by Ingenuity Home Design

Lower and Upper Floor Plan Job 20180033 Issue A dated 18 October 2019 prepared by Ingenuity Home Design

and with any supporting information received, except as amended by the conditions specified and imposed hereunder. The plans and specifications approved by this Modification supersede plans and specifications previously approved where there are any inconsistencies.

General Matters

- 2) **Disability Discrimination Act 1992**
This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.
- 3) **Separate Consent Required for Advertising Signage**
This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development.
- 4) **Mezzanine Balustrade**
The mezzanine balustrade must comply with Part D2.16 of the National Construction Code Series (BCA) Volume 1.
- 5) **Strata Plan**
The Strata Plan SP 78814 is to be amended, or new plan registered, to reflect the approved floor plan of the unit and encompassing industrial unit complex.

Operational Phases of the Development/Use of the Site

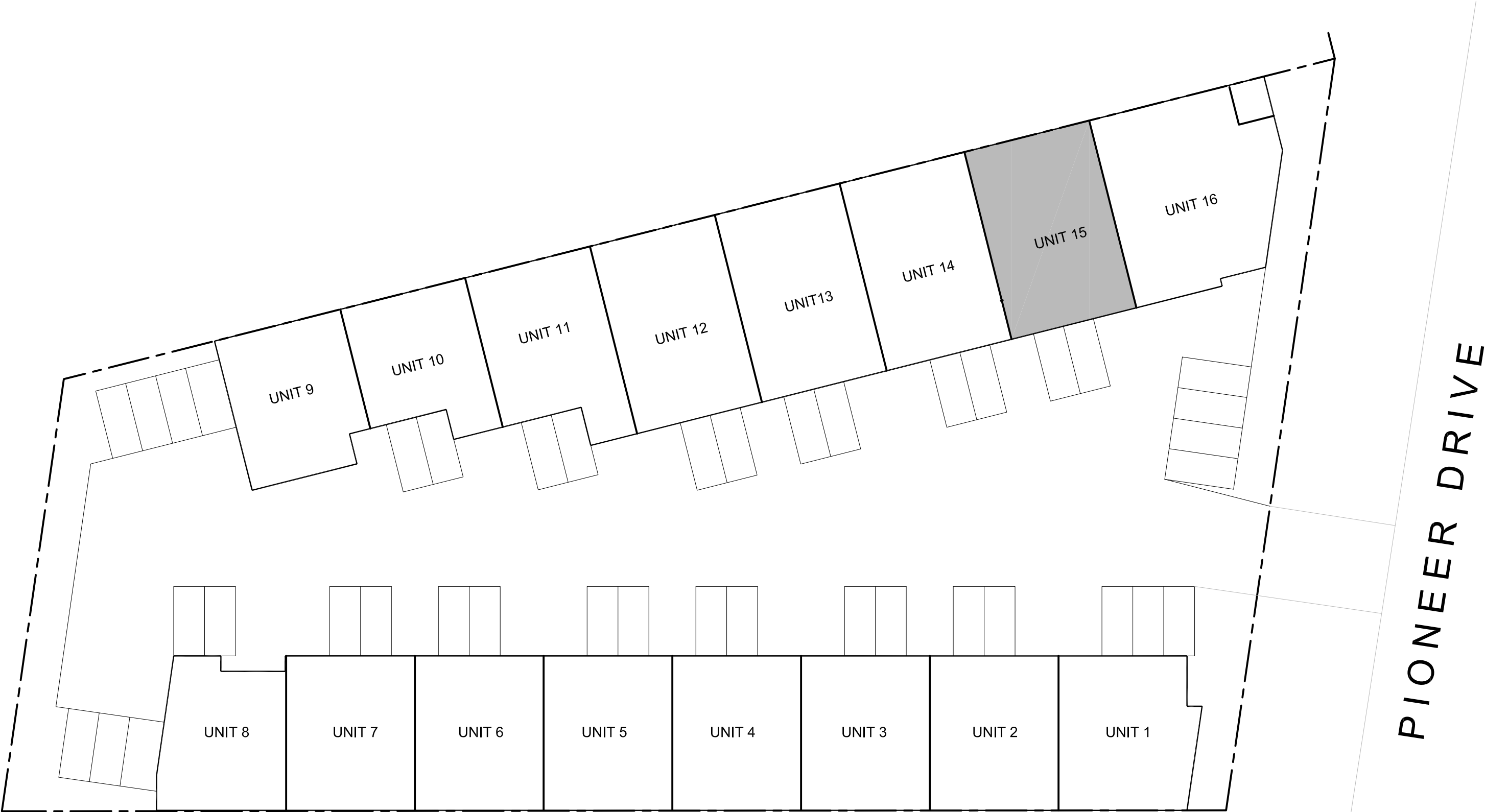
- 6) **Use of Areas within Unit**
Areas shown for use as Storage or Loading, Unloading or Servicing are to be limited to the stated use and not to be used for other business or industrial activities. The mezzanine level is to be used for storage only.
- 7) **Use of common areas**
Business and industrial activities are to take place within the unit. No business or industrial activities are to take place outside of the unit or within common driveway areas.
- 8) **Staff and Class Sizes**
A maximum of one (1) staff are to be onsite at the premises at any one time. Training groups between normal business hours (0900 - 1700) are limited to a maximum of two (2) participants per session on site at any time. Outside these hours a maximum of five (5) participants per session will be permitted to be on site at any time.
- 9) **Restricted Hours of Operation**
The hours of operation for the development shall be restricted to:
 - Monday to Friday: 0515 – 2000
 - Saturday: 0630 - 1030

Any extension to the approved hours of operation will require separate Council approval.

- 10) **Restricted Delivery Hours**
The delivery of service trucks shall be limited to 6.30 am to 9.00 pm daily, Mondays to Fridays and 8.00 am to 5.00 pm Saturdays only. Any alteration to the approved delivery hours will require the separate approval of Council.
- 11) **Storage of Goods and Materials**
All goods, materials and equipment shall be stored within the building and no part of the land shall be used for purposes of storage.
- 12) **No Display of Goods and Materials Outside Premises**
The placement of any cabinet, display stand, racks or any other means of displaying goods, whether or not for sale shall not be located on any property boundary, road reserve or outside the premises.
- 13) **Restriction on Placement of Storage Racks, Cabinets, Pallets etc**
The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.
- 14) **Noise Restrictions on Development**
The noise ($L_{Aeq} (15min)$) emanating from developments must not exceed 5 dB(A) above the background noise level ($L_{A90} (15min)$) of the area at any boundary of the land.
- 15) **Loading/Unloading Operations/Activities**
All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.
- 16) **Roller Door**
The roller door is to remained closed unless being utilised for loading, unloading or servicing.



<div><div>CokeWORKS</div><div>DESIGN</div></div>		
PROPOSED CONTINUED USE & MEZZANINE CW & CA BURROWS & C & N STUART UNIT 15, 8 PIONEER DRIVE, BELLAMBI		
title: SITE CONTEXT & LOCATION PLAN		A01
scale:1:1500 @ A4 date: NOVEMBER 2019 rev: A		



COKEWORKS DESIGN

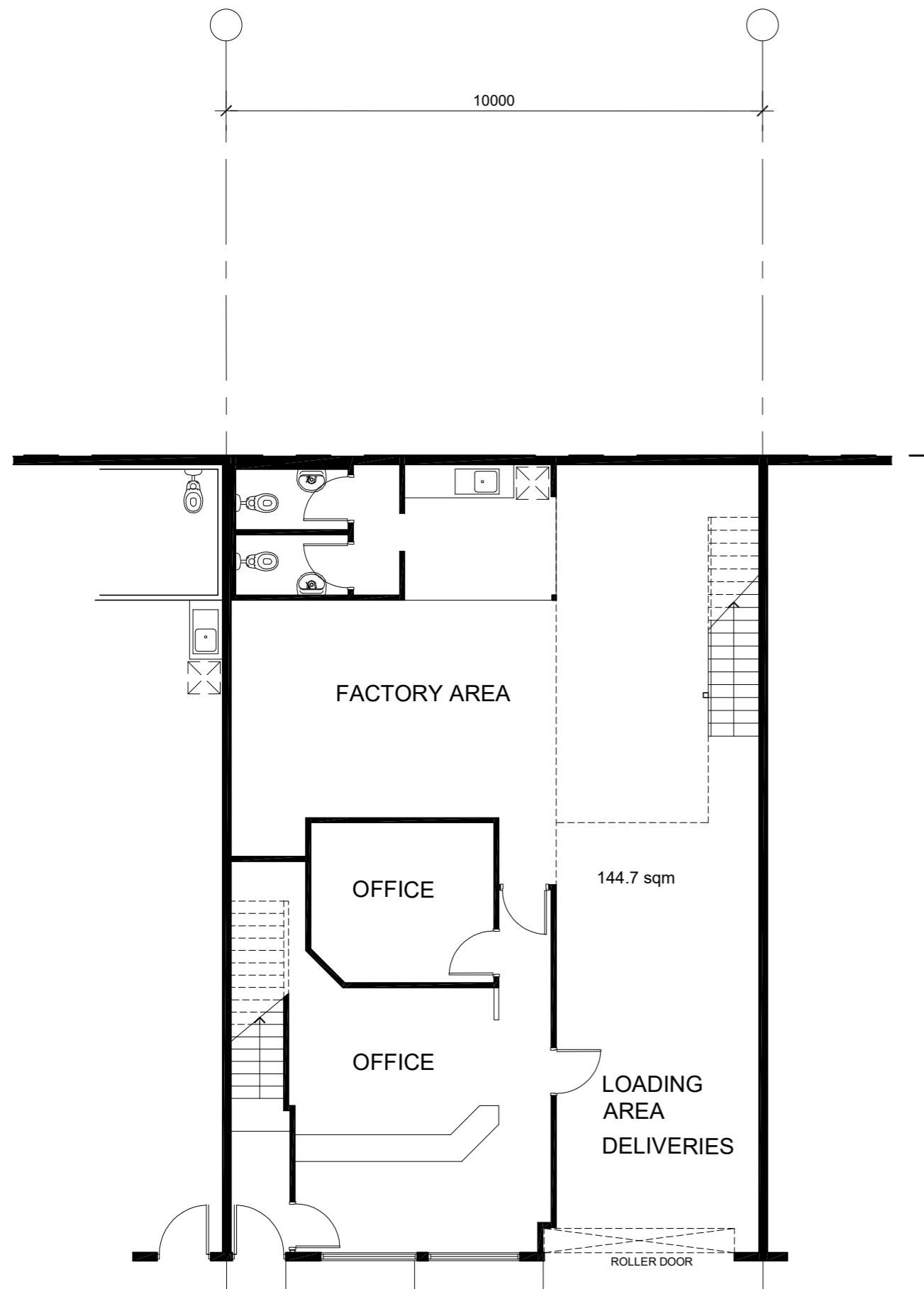
PROPOSED CONTINUED USE & MEZZANINE
CW & CA BURROWS & C & N STUART
UNIT 15, 8 PIONEER DRIVE, BELLAMBI



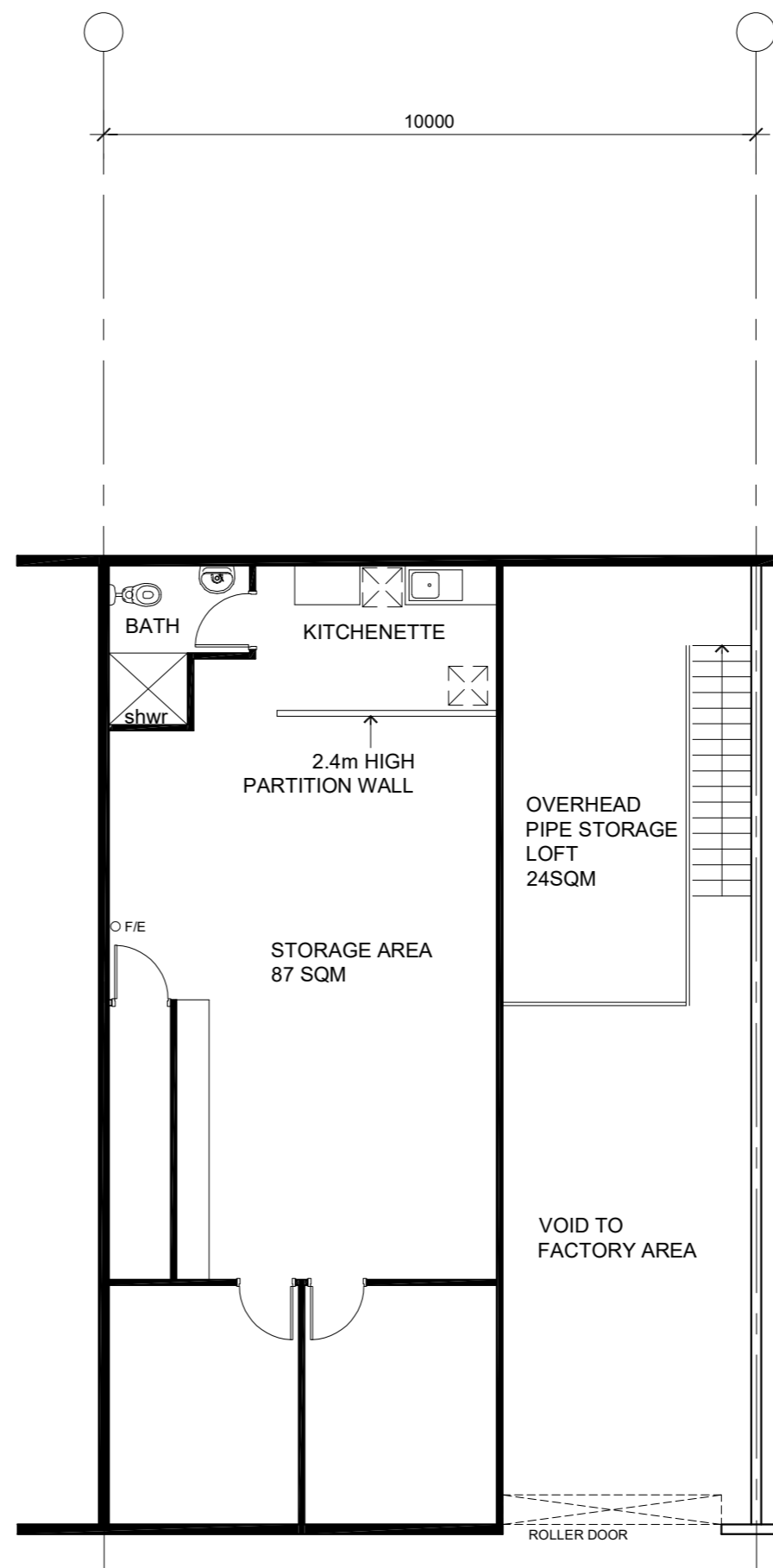
title: SITE PLAN

A02


scale: 1:300 @ A3 date: NOVEMBER 2019 rev: A



GROUND FLOOR PLAN



MEZZANINE FLOOR PLAN

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<p>PROPOSED CONTINUED USE & MEZZANINE CW & CA BURROWS & C & N STUART UNIT 15, 8 PIONEER DRIVE, BELLAMBI</p>		
<p>title: FLOORPLANS</p>	<p>A03</p>	
<p>scale: 1:100 @ A3 date: NOVEMBER 2019 rev: A</p>		

EXCEPTIONS TO DEVELOPMENT STANDARDS STATEMENT

DEVELOPMENT APPLICATION FOR INTERNAL MEZZANINE UNIT 15/ 8 PIONEER DRIVE BELLAMBI

This statement seeks an exemption to a development standard prescribed by the *Wollongong Local Environmental Plan 2009 (LEP)*.

The proposal seeks to construct an internal storage mezzanine within an existing light industrial unit. The exemption is sought as the site Floor Space Ratio is currently at the maximum proposed for the site (0.5:1).

The exception is sought pursuant to Clause 4.6 of the LEP. An exception is sought in relation to the strict application of the Floor Space Ratio of the site of 0.5:1.

The site area of 204 DP 776457 is 4373sqm. The site contains two blocks of industrial units with a total ground floor area of 2030sqm with a resultant FSR of 0.46:1.

Forming part of DA2004/1593 were mezzanine floors in units 1 & 16 which resulted in an FSR of 0.5:1 (2183sqm of gross floor area).

The buildings were designed and marketed to be capable of internal mezzanines with a height that allows for compliant ceiling clearances for two levels with each unit having a clear internal height exceeding 6m.

The mezzanine proposed for unit 15 is 111sqm including the internal access stair on each level. The total proposed area of unit 15 will result in a gross floor area of 255sqm.

VARIATION UNDER CLAUSE 4.6 WOLLONGONG LOCAL ENVIRONMENT PLAN 2009

The objectives of this clause are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- *Development consent must not be granted for development that contravenes a development standard unless: the consent authority is satisfied that:*
 - *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

The commentary provided outlines the development standard variation being proposed to be read in conjunction with the Statement of Environmental effects and Architectural plans.

Development Standard being varied

The development standard to be varied in this instance is Clause 4.4 Floor Space Ratio limiting the maximum Floor Space Ratio (FSR) to 0.5:1.

This mezzanine will increase the approved FSR to 0.524:1. This variation constitutes less than 10% variation and is minor in nature in relation to the context of the existing development.

Grounds for exception

The objectives of this control are as follows:

- *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- *to establish the maximum development density and intensity of land use, taking into account the availability of infrastructure to service that site and the vehicle and pedestrian traffic the development will generate,*
- *to ensure buildings are compatible with the bulk and scale of the locality.*

The exception being sought will not result in a visible change externally and will be wholly contained within the existing building structure. This proposal will not increase the built form on the subject site.

The site was originally well serviced with carparking and whilst the site has been strata titled with this carparking allocated to individual units and common use, the provision of carparking of the overall development exceeds the Wollongong Development Control Plan 2009 requirement of one (1) carparking space per seventy five (75) sqm of gross floor area.

The development in its entirety provides a total of thirty nine (39) parking spaces with five (5) of these spaces allocated for visitor parking. With the proposed increase to FSR of this application the site still provides approximately eight (8) carparking spaces in excess of the minimum.

The site is controlled by Wollongong LEP 2009 within which it is zoned IN2 – Light Industrial

The objectives of the IN2 Zone

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*
- *To encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.*
-

The exception sought in relation to this minor variation to Floor Space Ratio will not contradict the stated zone objectives being:

- The proposed exception aims to provide a larger light industrial unit without any adverse environmental impacts on other land used and,
- Provides a more viable space to allow for small business to utilise increasing employment opportunities to support the viability of the local region and contribute to economic growth and employment growth of Wollongong

The Intent of Clause 4.6 allows for the contravention of a development standard with approval of the consent authority. Compliance with *Clause 4.4 – Floor Space Ratio* of the *LEP* is considered to unreasonable or unnecessary when applied to the proposed internal mezzanine.

- The proposal does not increase the bulk and scale of the existing development
- The proposal can provide adequate carparking to service the development
- Non compliance with the development standard does not raise any matter of local, state or regional environmental planning significance

It is evident there are sufficient grounds to justify contravening the Floor Space Ratio in this instance, therefore it is considered that strict compliance with the Floor Space Ratio requirement under *Clause 4.4* is unwarranted given the circumstances of the proposal

DRAFT CONDITIONS DA-2019/1259

Approved Plans and Specifications

- 1) The development shall be implemented substantially in accordance with the details and any details on

Site Plan A02 Rev A dated November 2019 prepared by Cokeworks Design

Floor Plans A03 Rev A dated November 2019 prepared by Cokeworks Design

and with any supporting information received, except as amended by the conditions specified and imposed hereunder. The plans and specifications approved by this Modification supersede plans and specifications previously approved where there are any inconsistencies.

General Matters

- 2) **Disability Discrimination Act 1992**
This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.
- 3) **Separate Consent Required for Advertising Signage**
This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development.
- 4) A minimum of one (1) bicycle wall hanger must be installed within the industrial unit to allow employees to securely store bicycles as per the Australian Standard AS2890.3 - Bicycle Parking Facilities. This requirement shall be reflected on the Construction Certificate plans.
- 5) **Mezzanine Balustrade**
The mezzanine balustrade must comply with Part D2.16 of the National Construction Code Series (BCA) Volume 1.
- 6) **Strata Plan**
The Strata Plan SP 78814 is to be amended, or new plan registered, to reflect the approved floor plan of the unit and encompassing industrial unit complex.

Operational Phases of the Development/Use of the Site

- 7) **Use of Areas within Unit**
Areas shown for use as Storage or Loading, Unloading or Servicing are to be limited to the stated use and not to be used for other business or industrial activities.
- 8) **Use of common areas**
Business and industrial activities are to take place within the unit. No business or industrial activities are to take place outside of the unit or within common driveway areas.
- 9) **Staff Numbers**
A maximum of two (2) staff are to be at the premises throughout the day. Additional staff may temporarily attend the site.
- 10) **Restricted Hours of Operation**
The hours of operation for the development shall be restricted to:
 - Monday to Friday: 0700 – 1730
 - Saturday: 0700 - 1300

Any extension to the approved hours of operation will require separate Council approval.

- 11) **Restricted Delivery Hours**
The delivery of service trucks shall be limited to 6.30 am to 9.00 pm daily, Mondays to Fridays and 8.00 am to 5.00 pm Saturdays only. Any alteration to the approved delivery hours will require the separate approval of Council.
- 12) **Storage of Goods and Materials**
All goods, materials and equipment shall be stored within the building and no part of the land shall be used for purposes of storage.
- 13) **No Display of Goods and Materials Outside Premises**
The placement of any cabinet, display stand, racks or any other means of displaying goods, whether or not for sale shall not be located on any property boundary, road reserve or outside the premises.
- 14) **Restriction on Placement of Storage Racks, Cabinets, Pallets etc**
The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.
- 15) **Noise Restrictions on Industrial Development**
The noise ($L_{Aeq} (15min)$) emanating from industrial developments must not exceed 5 dB(A) above the background noise level ($L_{A90} (15min)$) of the area at any boundary of the land.
- 16) **Loading/Unloading Operations/Activities**
All loading/unloading operations are to take place at all times wholly within the confines of the site or within the road reserve under an approved traffic control plan.