

DETERMINATION OF A DEVELOPMENT APPLICATION FOR STATE SIGNIFICANT AND DESIGNATED DEVELOPMENT PURSUANT TO SECTION 80 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

I, Chris Wilson, Acting Deputy Director-General, Office of Sustainable Development Assessments and Approvals, as delegate of the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005, pursuant to section 80 of the *Environmental Planning and Assessment Act 1979* ("the Act") determine the development application ("the Application") referred to in Schedule 1 by granting consent subject to the conditions set out in Schedule 2.

The reason for the imposition of conditions is to:

- a) minimise any adverse environmental impacts associated with the development;
- b) ensure effective on-going environmental and safety management of the development; and
- c) provide for regular monitoring and reporting in the development.

Chris Wilson
A/ Deputy Director-General

Sydney,

2005

File No. S04/01781

SCHEDULE 1

Application made by:	Chemsal Pty Ltd ("the Applicant").
To:	The Minister for Planning ("the Minister").
In respect of:	Lot 7 DP788089, 12 Bushells Place, Wetherill Park, Fairfield local government area.
For the following:	Use of an existing facility to collect, store, sort and despatch chemical wastes, including chemicals classed as Dangerous Goods ("the development"), as described in <i>Environmental Impact Statement – Proposed Use of Existing Warehouse for the Collection, Temporary Storage and Transfer of Chemical Waste, Wetherill Park, NSW</i> prepared by Orbis Environmental Pty Ltd and dated July 2005.
Development Application:	Development Application No. 175-7-2005-i, lodged with the then Department of Infrastructure, Planning and Natural Resources on 26 July 2005, accompanied by <i>Environmental Impact Statement – Proposed Use of Existing Warehouse for the Collection, Temporary Storage and Transfer of Chemical Waste, Wetherill Park, NSW</i> prepared by Orbis Environmental Pty Ltd and dated July 2005.
State Significant Development	The proposal is classified as State significant development under Schedule 1, Group 9, Clause 27(5) of the <i>State Environmental Planning Policy (State Significant Development) 2005</i> .
Note:	1) To ascertain the date upon which this consent becomes effective, refer to section 80 of the Act. 2) To ascertain the date upon which this consent is liable to lapse, refer to section 95 of the Act. 3) If the Applicant is dissatisfied with this determination, section 97 of the Act grants him or her a right of appeal to the Land and Environment Court, which is exercisable within 12 months of receiving notice of this determination.

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SCHEDULE 2

In this consent, except in so far as the context or subject-matter otherwise indicates or requires, the following terms have the meanings indicated:

Act	<i>Environmental Planning and Assessment Act, 1979</i>
AEMR	Annual Environmental Management Report
Applicant	Chemisal Pty Ltd
BCA	Building Code of Australia
construction	any activity requiring a Construction Certificate, significant excavation work, road works, demolition, or any construction related activity as described in DA No. 175-7-2005-i
Council	Fairfield City Council
DEC	Department of Environment and Conservation (incorporating NSW Environment Protection Authority)
Department development	NSW Department of Planning the development to which this consent applies, the scope of which is described in the documents listed under condition 1.1 of this consent
Director-General	Director-General of the NSW Department of Planning, or delegate
dust	any solid material that may become suspended in air or deposited
EIS	<i>Environmental Impact Statement – Proposed Use of Existing Warehouse for the Collection, Temporary Storage and Transfer of Chemical Waste, Wetherill Park, NSW</i> prepared by Orbis Environmental Pty Ltd and dated July 2005.
EPL	Environment Protection Licence issued under the <i>Protection of the Environment Operations Act, 1997</i>
Minister	NSW Minister for Planning, or delegate
operation	commissioning of any stage of works as described in the development application No. 175-7-2005-i
Principal Certifying Authority	the Minister or an accredited certifier, appointed under section 109E of the Act, to issue a Part 4A Certificate as provided under section 109C of the Act
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
site	the land to which this consent applies

1. GENERAL

Scope of Development

1.1 The Applicant shall carry out the development generally in accordance with:

- a) Development Application No. 175-7-2005-i, lodged with the then Department of Infrastructure, Planning and Natural Resources on 26 July 2005;
- b) *Environmental Impact Statement – Proposed Use of Existing Warehouse for the Collection, Temporary Storage and Transfer of Chemical Waste, Wetherill Park, NSW* prepared by Orbis Environmental Pty Ltd and dated July 2005;
- c) Correspondence enclosing amendments to the EIS titled *Chemisal Pty Ltd – Proposed Chemical Waste Facility – Wetherill Park*, prepared by Moore Consulting & Management and dated 8 September 2005;
- d) Correspondence enclosing amendments to the EIS titled *Chemisal Pty Ltd – Proposed Chemical Waste Facility – Wetherill Park*, prepared by Premier Engineering Services Pty Ltd and dated 12 September 2005;
- e) Correspondence enclosing amendments to the EIS titled *Chemisal Preliminary Hazard Analysis – Toxic Chemical Modelling*, prepared by Moore Consulting & Management and dated 14 September 2005;
- f) Correspondence enclosing amendments to the EIS titled *Amendment to Chemisal EIS*, prepared by Orbis Environmental Pty Ltd and dated 21 October 2005;
- g) Correspondence enclosing amendments to the EIS titled *Proposed Use of Existing Warehouse for the Collection, Temporary Storage and Transfer of Chemical Wastes at 12 Bushells Place, Wetherill Park, Chemisal Pty Ltd: Proposed Amendments to EIS*, prepared by Orbis Environmental Pty Ltd and dated 18 November 2005; and
- h) the conditions of this consent.

1.2 In the event of an inconsistency between:

- a) the conditions of this consent and any document listed from condition 1.1a) to 1.1h) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and

Statutory Requirements

1.3 The Applicant shall ensure that all licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the development. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

Dispute Resolution

1.4 In the event that a dispute arises between the Applicant and Council or the Applicant and a public authority other than the Department, in relation to a specification or requirement applicable under this consent, the matter shall be referred by either party to the Director-General, or if not resolved, to the Minister, whose determination of the dispute shall be final and binding on all parties. For the purpose of this condition, "public authority" has the same meaning as provided under section 4 of the Act.

Note: Section 121 of the *Environmental Planning and Assessment Act 1979* provides mechanisms for resolution of disputes between the Department, the Director-General, councils and public authorities.

Surrender of Existing Development Consent

1.5 In accordance with Section 80A(5) of the *Environmental Planning and Assessment Act, 1979*, the Applicant shall surrender development consent for DA 533/97 issued by Council within one (1) month of the commencement of activities the subject of this consent.

2. COMPLIANCE

2.1 The Applicant shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

2.2 The Applicant shall be responsible for environmental impacts resulting from the actions of all persons on the site, including contractors, subcontractors and visitors.

2.3 At least two weeks prior to the commencement of operation activities of the development, or within such period otherwise agreed by the Director-General, the Applicant shall certify in writing to the

satisfaction of the Director-General, that it has complied with all conditions of this consent applicable prior to that event.

- 2.4 Notwithstanding condition 2.3 of this consent, the Director-General may require an update report on compliance with all, or any part, of the conditions of this consent. Any such update shall meet the requirements of the Director-General and be submitted within such period as the Director-General may require.
- 2.5 The Applicant shall meet the requirements of the Director-General in respect of the implementation of any measure necessary to ensure compliance with the conditions of this consent, and general consistency with the documents listed under condition 1.1 of this consent. The Director-General may direct that such a measure be implemented in response to the information contained within any report, plan, correspondence or other document submitted in accordance with the conditions of this consent, within such time as the Director-General may require.

3. CONSTRUCTION AND PART 4A CERTIFICATION

- 3.1 Prior to the commencement of any construction associated with the development, the Applicant shall erect at least one sign at the construction site and in a prominent position at the site boundary where the sign can be viewed from the nearest public place. The sign(s) shall indicate:
- a) the name, address and telephone number of the Principal Certifying Authority;
 - b) the name of the person in charge of the construction site and telephone number at which that person may be contacted outside working hours; and
 - c) a statement that unauthorised entry to the construction site is prohibited.

The sign(s) shall be maintained for the duration of construction works, and shall be removed as soon as practicable after the conclusion of the construction works.

- 3.2 Prior to the issue of an occupation certificate (Interim or Final), the Applicant shall certify to the Principal Certifying Authority and Council, that:
- a) the mechanical exhaust system has been installed in accordance with Australian Standard AS1668 Parts 1 and 2; and
 - b) The exhaust hood and air conditioning system has been installed in accordance with Australian Standard AS1668 (Mechanical Ventilation and Air Conditioning Code) and Australian Standard AS1055 (Acoustics – Description and Measurement of Environmental Noise).

4. ENVIRONMENTAL PERFORMANCE

Waste

- 4.1 Except as provided in condition 4.2 of this consent and/or expressly permitted by an Environmental Protection Licence under the *Protection of the Environment Operations Act 1997*, the Applicant shall not cause, permit or allow waste generated outside the site to be received at the site for storage, treatment, processing or reprocessing or disposal, or any waste generated at the site to be disposed of at the site.

Note: The above condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the site if it requires an Environment Protection Licence under the *Protection of the Environment Operations Act 1997*.

- 4.2 The Applicant shall ensure that only the following types of waste are accepted at the site for sorting, storage and transfer at the site:

Chemical waste including flammables, combustibles, corrosives, toxics, gas cylinders and oxidising agents.

- 4.3 The Applicant shall ensure that waste received or despatched at the site shall be in pack sizes not exceeding 1000 litres. Decanting of chemical waste on site shall be limited to waste sump oil into intermediate bulk containers no greater than 1000 litres in volume.

- 4.4 The Applicant shall ensure that any waste generated or accepted at the site which is to be disposed of off-site is assessed and classified in accordance with the DEC's *Environmental Guidelines*:

Assessment and Classification and Management of Liquid and Non-Liquid Wastes (EPA, 1999) prior to disposal.

- 4.5 The Applicant shall ensure that the waste accepted at the site for sorting/storage is despatched to a place that can lawfully accept that class of waste.
- 4.6 The Applicant shall ensure that each waste for sorting/storage is stockpiled separately.
- 4.7 The incineration or burning of any waste is not permitted at the site at any time.

Asbestos

- 4.8 The Applicant shall handle and dispose of asbestos containing materials in accordance with the *Protection of the Environment Operations (Waste) Regulation* 1996 or as otherwise permitted in any Environment Protection Licence issued for the development under the *Protection of the Environment Operations Act* 1997.

Noise

- 4.9 The Applicant shall undertake the activities the subject of this consent in accordance with the *NSW Industrial Noise Policy* (EPA, 1999) and the *Protection of the Environment Operations Act* 1997. Operational activity at the site shall be restricted to within the hours of:
 - a) 7:00 a.m. and 7:00 p.m. Monday to Friday;
 - b) 6:00 a.m. to 6:30 a.m. Saturday and Sunday; and
 - c) 5:00 p.m. to 6:30 p.m. Saturday and Sundaywith no work on Public Holidays.

Traffic and Transport

- 4.10 Heavy vehicles accessing the site shall not queue or wait within the adjacent local street system.
- 4.11 Vehicles associated with the construction and/or operations of the development shall not park on local roads in the vicinity of the development at any time.
- 4.12 The Applicant shall clearly mark all visitor, disabled, ambulance and service vehicle parking areas.

Air Quality

Odour

- 4.13 The Applicant shall not cause or permit the emission of offensive odour beyond the boundary of the site, unless as permitted by any licence under the *Protection of the Environment Operations Act* 1997.

Fire Safety and Hazards

- 4.14 Prior to the commencement of activities associated with the development, the Applicant shall ensure that a toxic gas sensor and smoke/fire detectors as detailed in the document referred to in condition 1.1c of this consent are installed and linked to the site alarm and remote alarm after hours to a security control centre or the NSW Fire Brigades.
- 4.15 Prior to the commencement of activities associated with the development, the Applicant shall prepare the following:
 - a) a **Fire Safety Study** for the development. The study shall address relevant aspects detailed in the Department's *Hazardous Industry Planning Advisory Paper No.2 – Fire Safety Study Guidelines* (Department of Planning 1993) and the New South Wales Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*. The Applicant shall consult with the NSW Fire Brigades on the preparation of this study and implement their recommendations. Evidence of the NSW Fire Brigades approval of the Fire Safety Study must be submitted to the Director-General prior to the commencement of activities associated with the development.
 - b) **Final Hazards Analysis** for the development. The analysis shall be prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No.6 - Guidelines for Hazard Analysis*. The analysis must provide specific detail on the nature and volume of all waste chemicals to be received, stored and sorted on the site. The analysis must demonstrate to the satisfaction of the Director-General that the development and the safety related management procedures comply with the requirements of AS 3833:1998. The Final Hazard Analysis must include a manifest, as required by AS 3833, of all Dangerous Goods likely to be

on site together with adequate information on each chemical. The procedures for implementing the safety related management requirements detailed in AS 3833 must be clearly detailed. These studies shall be approved by the Director-General prior to the commencement of construction activities. The measures detailed in the Fire Safety Study shall be reflected in the Environmental Management Plan prepared for the development (refer to conditions 6.1 and 6.2 of this consent).

Water Quality

- 4.16 Except as may be expressly provided by an Environment Protection Licence for the development, the Applicant shall comply with section 120 of the *Protection of the Environment Operations Act 1997*, which prohibits the pollution of waters.
- 4.17 The Applicant shall design, construct and maintain all stormwater management infrastructure on the site to:
- (a) restrict future stormwater flows from the site to existing flow levels or better;
 - (b) manage all stormwater to minimise the discharge of sediments and other pollutants from the site;
 - (c) be designed in accordance with any relevant stormwater policy prepared by Council;
 - (d) comply with the relevant provisions in the New South Wales Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*; and
 - (e) prevent the drainage of stormwater onto neighbouring properties and adjoining roadways; and
 - (f) prevent the overloading of Council stormwater infrastructure by site discharges during heavy rainfall events.
- 4.18 Prior to the commencement of activities associated with the development, the Applicant shall notify the NSW Fire Brigades of the exact location and operational procedures of the stormwater isolation valve located on the site. Evidence of this notification shall be provided to the Director-General upon request.

Dangerous Goods

- 4.19 All chemicals, fuels and oils shall be stored in appropriately bunded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) shall be designed and installed in accordance the requirements of the DEC's Environmental Protection Manual *Technical Bulletin Bunding and Spill Management*.

5. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

- 5.1 Subject to confidentiality, the Applicant shall make all documents required under this consent available for public inspection on request.

Complaints Procedure

- 5.2 Prior to the commencement of activities associated with the development, the Applicant shall ensure that the following are available for community complaints:
- a) a 24-hour, toll-free telephone number on which complaints about the development may be registered;
 - b) a postal address to which written complaints may be sent; and
 - c) an email address to which electronic complaints may be transmitted.

The telephone number, the postal address and the email address shall be displayed at the entry to the site. These details shall also be provided on the Applicant's internet site, should one exist. The telephone number, the postal address and the email address shall be maintained throughout the life of the development.

- 5.3 The Applicant shall record details of all complaints received through the means listed under condition 5.2 of this consent in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:
- a) the date and time, where relevant, of the complaint;
 - b) the means by which the complaint was made (telephone, mail or email);
 - c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - d) the nature of the complaint;
 - e) any action(s) taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and

- f) if no action was taken by the Applicant in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be made available for inspection by the Director-General upon request.

6. ENVIRONMENTAL MANAGEMENT

Environmental Management Plan

- 6.1 The Applicant shall prepare and implement an **Environmental Management Plan** to detail an environmental management framework, practices and procedures to be followed during the operation of the development. The Plan shall be consistent with the Department's *Guideline for the Preparation of Environmental Management Plans* (DIPNR 2004), and shall include, but not necessarily be limited to:

- i) the complaints handling procedures (conditions 5.2 and 5.3 of this consent);
- ii) the Management Plans listed under condition 6.2 of this consent;
- iii) management and monitoring plans proposed within the EIS with respect to operational activities associated with the development.

The Plan shall be submitted for the approval of the Director-General no later than one month prior to the commencement of operation of the development, or within such period otherwise agreed by the Director-General. Operation shall not commence until written approval has been received from the Director-General. Upon receipt of the Director-General's approval of the Plan, the Applicant shall provide a copy of the Plan to Council as soon as practicable.

The Director-General may, having considered any submission made by the Applicant, consent to the incorporation of the requirements listed under conditions 6.1 and 6.2 into any existing Environmental Management Plan for development at the site.

- 6.2 As part of the Environmental Management Plan for the development, required under condition 6.1 of this consent, the Applicant shall prepare and implement the following Management Plans:

- a) a **Traffic Management Plan** to outline measures to manage all heavy vehicle traffic movements associated with the development to minimise impacts on the local and regional road network. The Plan shall apply to movements during the day, evening and night-time periods, and shall include, but not necessarily be limited to:
 - i) measures as detailed in documents referred to in condition 1.1 of this consent;
 - ii) details of the transport route hierarchy for heavy vehicles, including the restriction of local residential roads to access/depart the site.
 - iii) measures to be implemented in the event of a traffic incident involving vehicles transporting chemical wastes associated with the site.
- b) a **Safety Management Plan** to detail measures and emergency procedures to be implemented at the site to protect the environment, the facility, on-site personnel and visitors, and/or adjoining facilities. The Plan shall clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to procedures. The Plan shall reflect the outcomes of the Fire Safety Study and Preliminary Hazards Analysis provided in the *Environmental Impact Statement – Proposed Use of Existing Warehouse for the Collection, Temporary Storage and Transfer of Chemical Waste, Wetherill Park, NSW* prepared by Orbis Environmental Pty Ltd and dated July 2005 (refer to condition 1.1b of this consent) and shall be prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No.9 – Safety Management*. Records of the implementation of the Safety Management Plan shall be kept on-site and shall be made available for inspection by the Director-General upon request.
- c) a **Stormwater Management Plan** to detail measures to manage and monitor stormwater quality impacts on-site. This plan shall include, but not necessarily be limited to:
 - i) details of all bunding and drainage works on the site;
 - ii) details of appropriate water quality criteria and all measures to monitor stormwater quality; and
 - iii) a program for the management of contaminated and potentially contaminated stormwater.

7. ENVIRONMENTAL MONITORING AND AUDITING

- 7.1 The Applicant shall undertake all monitoring, including recording and reporting of monitoring results, as required under this consent and as may be specified in an Environment Protection Licence for the development.

Noise Monitoring and Auditing

- 7.2 The Applicant shall notify the Director-General of any noise-related complaint being received through the community complaint procedure required under conditions 5.2 and 5.3 of this consent within 7 days of the complaint being received. At the direction of the Director-General, the Applicant shall conduct a **Noise Audit** of its operations at the site. This Audit shall occur during a period in which the development is operating under normal operating conditions. This Audit shall:
- (a) be undertaken by a suitability qualified and experienced person;
 - (b) assess whether the development is complying with the guidelines provided in the *New South Wales Industrial Noise Policy* (EPA, 2000); and
 - (c) identify what additional measures could be implemented to ensure compliance should any non-compliance be detected.
- 7.3 Within 28 days of conducting the Audit referred to under condition 7.2 of this consent, the Applicant shall provide the Director-General with a copy of the Noise Audit report. If the Audit identifies any non-compliance with the noise limits imposed under this consent, the Applicant shall detail what additional measures would be implemented to ensure compliance, clearly indicating who would implement these measures, when these measures would be implemented, and how the effectiveness of these measures would be measured and reported to the Director-General.

Independent Environmental Auditing

- 7.4 Within two years of the commencement of construction of the development, and then as may be directed by the Director-General, the Applicant shall commission an independent person or team to undertake an Environmental Audit of the development. The independent person or team shall be approved by the Director-General prior to the commencement of the Audit. The Audit shall:
- a) be carried out in accordance with *ISO 19011:2002 - Guidelines for Quality and/or Environmental Management Systems Auditing*;
 - b) assess compliance with the requirements of this consent, and other licences and approvals that apply to the development;
 - c) assess particularly the hazard-related issues associated with the development in accordance with the Department's *Hazardous Industry Planning Advisory Paper No.5 – Hazard Audit Guidelines*.
 - d) assess the environmental performance of the development against the predictions made and conclusions drawn in the documents referred to under condition 1.1 of this consent; and
 - e) review the effectiveness of the environmental management of the development, including the environmental management plan required under condition 6.1 of this consent.

An **Environmental Audit Report** shall be submitted to the Director-General within two months of the completion of the Audit, detailing the findings and recommendations of the Audit and including a detailed response from the Applicant to any of the recommendations contained in the Report.

The Director-General may require the Applicant to undertake works to address the findings or recommendations presented in the Report. Any such works shall be completed within such time as the Director-General may require.

8. ENVIRONMENTAL REPORTING

Incident Reporting

- 8.1 The Applicant shall notify the DEC and the Director-General of any incident with actual or potential significant off-site impacts on people or the biophysical environment as soon as practicable after the occurrence of the incident ("initial notification"). The Applicant shall provide written details ("written report") of the incident to the DEC and the Director-General within seven days of the date on which the incident occurred.
- 8.2 The Applicant shall meet the requirements of the Director-General to address the cause or impact of any incident, as it relates to this consent, reported in accordance with condition 8.1 of this consent, within such period as the Director-General may require.

Note: Condition 8.2 of this consent does not limit or preclude the DEC from requiring any action to address the cause or impact of any incident, in the context of the DEC's statutory role in relation to the development.