

**DETERMINATION OF A STAGE TWO DEVELOPMENT UNDER SECTION 80 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), under section 80 of the *Environmental Planning and Assessment Act 1979*, determine the development ("the development") referred to in Schedule 1 by granting consent subject to the conditions set out in Schedule 2.

The reasons for the imposition of conditions is to:

- i) minimise any adverse environmental impacts associated with the development;
- ii) provide for on-going environmental management of the development; and
- iii) provide for regular monitoring and reporting on the development.

Diane Beamer MP
**Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)
Minister for Juvenile Justice
Minister for Western Sydney**

Sydney, 17 May 2005 File No. S02/00703

SCHEDULE 1

Application made by: D H Gibson Pty Ltd ("the Applicant");

To: The Minister for Infrastructure and Planning ("the Minister");

In respect of: Lot 205 DP103776, 205-231 Fairfield Road, Yennora

For the following: Stage Two of the industrial/warehouse facility, specifically the occupation and use of Tenancy Two (8,425m²) for warehousing and distribution purposes, as described in *Statement of Environmental Effects for D H Gibson Pty Ltd as Yennora Industrial Development Stage 2 Lot 205, DP 103776 Foray Street and Fairfield Road, Yennora NSW 2161*, prepared by D H Gibson (not dated).

Development Application: Development Application No. 258-10-2004-i, lodged with the Department of Infrastructure, Planning and Natural Resources on 21 October 2004;

State Significant Development Under Section 76A(7) of the Act, the proposed development is classified as State Significant development because it is part of a project that is a type of development listed in Schedule 1 of *State Environmental Planning Policy No. 34 - Major Employment Generating Industrial Development*.

Appeal Rights

If the Applicant is dissatisfied with the Minister's determination of the development application, section 97 of the *Environmental Planning and Assessment Act 1979* provides a right of appeal to the Land and Environment Court.

Commencement of Consent

Pursuant to section 83(1)(a) of the *Environmental Planning and Assessment Act 1979*, this consent operates from the date that is endorsed on the notice of determination given to the Applicant.

Lapse of Consent

Pursuant to section 95 of the *Environmental Planning and Assessment Act 1979*, this development consent is liable to lapse five years after the date from which it operates unless the use of any land, building or work the subject of the consent is actually commenced before the date on which the consent would otherwise lapse

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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	D H Gibson Pty Ltd
BCA	Building Code of Australia
construction	any construction related activity as described in the application for this development
Council	Holroyd City Council
Department	NSW Department of Infrastructure, Planning and Natural Resources
development	the development to which this consent applies
Director-General	Director-General of the NSW Department of Infrastructure, Planning and Natural Resources, or delegate
Minister	Minister for Infrastructure and Planning, or delegate
operation	the period commenced by the commissioning of any stage of the works as described in the application for this development
Regulation	<i>Environmental Planning and Assessment Regulation, 2000</i>
SEE	<i>Statement of Environmental Effects for D H Gibson Pty Ltd as Yennora Industrial Development Stage 2 Lot 205, DP 103776 Foray Street and Fairfield Road, Yennora NSW 2161, prepared by D H Gibson (not dated).</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. 258-10-2004-i, lodged with the Department of Infrastructure, Planning and Natural Resources on 21 October 2004;
 - b) the conditions of consent relating to Development Application No. 197-06-2002;
 - c) *Statement of Environmental Effects for D H Gibson Pty Ltd as Yennora Industrial Development Stage 2 Lot 205, DP 103776 Foray Street and Fairfield Road, Yennora NSW 2161*, prepared by D H Gibson (not dated); and
 - d) 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 1.1c) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and
 - b) any document listed from condition 1.1a) to 1.1c) inclusive, and any other document listed from condition 1.1c) to 1.1c) inclusive, the most recent document shall prevail to the extent of the inconsistency.

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.

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 Prior to each of the events listed from a) to b) below, 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. Where an event is to be undertaken in stages, the Applicant may, subject to the agreement of the Director-General, stage

the submission of compliance certification consistent with the staging of activities relating to that event.

- a) commencement of construction of the development; and
- b) commencement of operation of the development;

- 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 agree.
- 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 agree.

3. ENVIRONMENTAL PERFORMANCE

Noise Impacts

Operating Hours

- 3.1 The Applicant shall only conduct operations at the development between 7:00am and 7:00pm Monday to Friday, 7:00am to 12:00pm Saturdays, and at no time on Sundays or Public Holidays.

Noise Criteria

- 3.2 The Applicant shall construct, operate and maintain the development to ensure that noise generated during the operation of the development does not exceed the criteria specified in Table 1.

Table 1 – Operational Noise Criteria

Locations	Noise Criteria L _{Aeq} (dB(A)) – Day and Evening
Crosby Crescent, Fairfield (South)	31
Cnr of Fairfield Road and Dennistoun Avenue, Yennora (North East)	32

Note: For the purpose of this table, the time periods shall be defined as follows:

- i) Day – the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays; and
- ii) Evening – the period from 6pm to 10pm.

Traffic and Transport

Site Access

- 3.3 The Applicant shall ensure that all heavy vehicles enter and leave the site in a forward direction.
- 3.4 Vehicles associated with the construction or operation of the development shall be accommodated on-site at all times.
- 3.5 Landscaping and any other obstructions to visibility shall not affect driver sight distances for vehicles entering and exiting the site.
- 3.6 Internal roads, driveways, parking areas, loading bays and vehicular turning areas shall be maintained clear of obstruction and used exclusively for the purposes of parking, vehicle access and loading and unloading respectively. Under no

circumstances shall these areas be used for the storage of goods or waste materials or any other purpose not otherwise permitted by this consent.

Air Quality Impacts

- 3.7 The Applicant shall design, construct, commission, operate and maintain the development in a manner that minimises the generation of dust and emission of dust from the site.

Soil and Water Quality Impacts

- 3.8 The Applicant shall take all reasonable measures to minimise soil erosion and the discharge of sediments and pollutants from the site during construction and operation.

Visual Amenity

- 3.9 This consent does not permit the display of any advertisement, or the erection of any advertising structure, on the site. This condition does not apply for any advertisement or structure that cannot be seen from the nearest public space.

Dangerous Goods

- 3.10 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. Bunds shall be designed and installed in accordance the requirements of the EPA's *Environmental Protection Manual Technical Bulletin Bunding and Spill Management*.

4. ENVIRONMENTAL MONITORING AND AUDITING

Noise Monitoring and Auditing

- 4.1 Within 90 days of commencement of operation of the development, and during a period in which the development is operating under design loads and normal operating conditions, the Applicant shall conduct a **Noise Audit** of its operations. This Audit shall:
- (a) be undertaken by a suitability qualified and experienced person;
 - (b) assess whether the development is complying with the intrusive, amenity, sleep disturbance and traffic noise criteria in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000) and the predicted noise levels detailed in documents specified in condition 1.1c) and condition 3.2 of this consent;
 - (c) identify what additional measures shall be implemented to ensure compliance should any non-compliance be detected; and
 - (d) provide details of any complaints received relating to noise generated by the development, and action taken to respond to those complaints.
- 4.2 Within 28 days of conducting the Audit referred to under condition 4.1 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.

5. ENVIRONMENTAL MANAGEMENT

Operation Environmental Management Plan

- 5.1 The Applicant shall prepare and implement an Operational Environmental Management Plan to outline environmental management practices and procedures to be followed during the operation of the development. The Protocol shall provide mechanisms to ensure that the development is operated in an efficient manner with respect to noise, traffic and waste management.

The Applicant shall obtain the Director-General's approval of the Operational Environmental Management Plan prior to the commencement of operations at the site.

6. ENVIRONMENTAL REPORTING

Incident Reporting

- 6.1 The Applicant shall notify 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. The Applicant shall provide written details of the incident to the Director-General within seven days of the date on which the incident occurred.
- 6.2 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 6.1 of this consent, within such period as the Director-General may agree.
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