



NSW GOVERNMENT  
Department of Planning

**MAJOR PROJECT ASSESSMENT:  
Reckitt Benckiser -  
Dangerous Goods Warehouse Project**



Director-General's  
Environmental Assessment Report  
Section 75I of the *Environmental Planning and Assessment Act 1979*

August 2009

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## EXECUTIVE SUMMARY

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In 2003 Penrith City Council (Council) approved a development application for the establishment of the ING Westpark Industrial Estate at Erskine Park (Lot 1 DP1128233) in the Penrith local government area. The Estate included the construction of three warehouse structures (A, B and C), each with smaller building units.

Since then, Council has issued a number of development consents for the occupation and use of some of these units for warehouse and distribution facilities. Two warehouses on the Westpark Industrial Estate (Building A1 and C3/C4) have received approval for the storage of dangerous goods.

On 16 February 2009, Council approved a Development Application (DA09/0008) for the fitout and occupation of Building A2 by Reckitt Brenckiser. The development application addressed all potential environmental impacts resulting from the proposed activities including traffic generation, staff numbers, non-dangerous goods and fitout-related activities. The fitout activities included the installation of a temperature controlled area, storage racks, and lowered ceiling heights over the proposed block stacking area. A fire rated wall extension was also approved by Council.

Reckitt Benckiser now proposes to use Building A2 to store a range of products, including some dangerous goods. The proposed storage of these products will be in quantities exceeding the criteria for a Major Hazard Facility, and as such meets the criteria in Clause 10(3) of Schedule 1 in *State Environmental Planning Policy (Major Development) 2005*. Consequently, the project is classified as a 'major project', and requires approval under part 3A of the EP&A Act.

During the exhibition period, the Department received two submissions from public authorities: Penrith City Council (Council) and the Department of Environment, Climate Change and Water (DECCW). Both Council and the DECCW supported the project subject to recommended conditions of approval.

The Department has assessed the merits of the project in detail and is satisfied that its environmental impacts can be either mitigated or managed to ensure an acceptable level of environmental impact. The proposed warehouse and distribution activities are consistent with the intended use of the Westpark Industrial Estate as originally approved by Council.

The Department considers that the project is in the public interest, and should be approved subject to conditions.

# 1. PROPOSED PROJECT

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## 1.1 Project Background

The Westpark Industrial Estate is located in the north west corner of the Erskine Park Employment Area and is within the Western Sydney Employment Area State Environmental Planning Policy (refer Figure 1). The site is zoned 4(e1) Employment Restriction by the *Penrith Local Environmental Plan (Erskine Park Employment Zone) 1994*. Figure 2 illustrates the location of Building A2 in relation to the Westpark Industrial Estate.



Figure 1: Location of the Westpark Industrial Estate



Figure 2: Proposed Project Site

In 2003 Penrith Council (Council) approved development of the Westpark Industrial Estate located at 1-107 Erskine Park Road, Erskine Park (Lot 1 DP1128233). Since this time subsequent approvals have been issued by Council for the occupation and fit out of the three warehouse structures (A, B and C) each of which contain smaller building units. Warehouse A and C are both operational. Development consent has been granted for the construction of Warehouse B, however, lacking occupants, remains unfinished.

The Proponent is seeking approval for the storage of dangerous goods within Building A2. In response to new Major Hazard Facility legislation which affects the operation of the current storage facility in West Ryde, Reckitt Benckiser has determined that an additional facility is required to accommodate its increased need for storage space; the Westpark Industrial Estate.

A Development Application (DA09/0008) regarding the fitout and occupation of Building A2 was submitted to Penrith City Council (Council) and subsequently approved on 16 February 2009. A copy of the development approval is attached as Appendix C. The development application addressed all potential environmental impacts resulting from the proposed activities including traffic generation, staff numbers, non-dangerous goods and fitout related activities. The proposed fitout activities included the installation of a temperature controlled area, storage racks, and lowered ceiling heights over the proposed block stacking area. A fire-rated wall extension, while related to the activity of storing dangerous goods, was also approved by Council.

## 1.2 Project Description

The Proponent is seeking approval for the storage of dangerous goods within Building A2 of the Westpark Industrial Estate. The proposed quantities of dangerous goods that would be stored exceeds the criteria for a Major Hazard Facility under the Control of Major Hazard Facilities National Standard [NOHSC: 1014 (2002), and as such, is classified as a Part 3A project under the *Environmental Planning and Assessment Act 1979*. The storage of the dangerous goods is the subject of this application and assessment.

The major components of the project are summarised in Table 1, and depicted in Figure 3. The project is described in full in the Environmental Assessment (EA), which is attached as Appendix G.

*Table 1: Major components of the project*

Aspect	Description
Project Summary	<b>The receipt, storage, packing and dispatching of Dangerous Goods in Building A2 in the Westpark Industrial Estate. The footprint of Building A2 is 10,769m<sup>2</sup>.</b>
Dangerous and non-dangerous goods Storage	The storage of dangerous goods within Warehouse A2 on approved storage racking and in a temperature controlled area. The fitout and operation of the warehouse has been approved through a separate approval.
Plant and Equipment	Electric battery-operated forklifts and ride-on movers.
Employment	Approximately 40 construction staff. Approximately 25 operational staff.
Hours of operation	24 hours per day, 7 days per week. Approved by Penrith Council - DA09/0008

Building A2 has a floor space of approximately 10,769 m<sup>2</sup>, of which 6,276 m<sup>2</sup> would be used as a block stacking area and storage space with racks and 3,100 m<sup>2</sup> as an approved temperature controlled area for the storage of dangerous and non-dangerous goods at a constant temperature. The remaining area would be used for entry and access.

Dangerous goods would be stored in the eastern portion of the warehouse, including the racking area, containing Class 2.1, Class 2.1 Subrisk 8, Class 3, and Class 4.1 materials. The storage racking used for both the dangerous and non-dangerous goods has been designed and built in accordance with the relevant BCA requirements. The lowered ceiling was installed specifically to accommodate the storage of dangerous goods.

The products would be received on-site, unloaded and then allocated to one of three storage areas;

- aerosol storage area (block stack area);
- flammable liquids storage area (racking area); and
- temperature controlled area.

Specific services to be conducted at Warehouse A2 include:

- unloading and receipt of finished goods via trucks and shipping containers;
- management of inventory in a racked and block stacked environment;
- order fulfilment including picking and packing of finished orders to customers;



- loading of transport vehicles;
- management of product returns;
- inspection of goods for QA purposes;
- product embellishment (eg. stickering, neck-hangers, custom packs assembly, etc).

No manufacturing of products would occur within, or in areas surrounding Building A2. There is no decanting, filling or mixing of products to be undertaken on site.

Material handling equipment includes electric battery-operated forklifts and ride-on movers. The building would include pallet stretch wrap machines, which are standard for most warehousing activities of this nature. Waste storage bins would include a number of 1.5 cubic metres and one 160-litre bin within the warehouse.



Figure 3: Site layout of Warehouse A2

The maximum quantities of dangerous goods to be stored in Building 2A are shown in Table 2.

Table 2: Dangerous Goods to be Stored

Dangerous Goods Class	Description	Sub-risk	NEPA 30B Level	Representative Product	Maximum Quantity	Units	Storage
2.1			Level 1	Airwick Air Freshener Aerosol	130,000	kilograms	Block stack area
2.1			Level 2	Mortein Ultra Low Allergenic Insect Killer	900,000	kilograms	Block stack area
2.1			Level 3	Mortein Fast Knockdown Insect Killer	680,000	kilograms	Block stack area
2.1		Class 8		Veet Hair Removal Mousse	12,000	kilograms	Block stack area
3	PGIII			Aerogard Tropical Strength Pump Spray	360,000	Litres	Racking area

Dangerous Goods Class	Description	Sub-risk	NEPA 30B Level	Representative Product	Maximum Quantity	Units	Storage
4.1	PGII			Clearasil Ultra Deep Pore Face Wipes	1,200	kilograms	Temperature Controlled Area

### 1.3 Project Need

The proposed project is considered necessary to improve the operational efficiencies of Reckitt Benckiser's existing business within NSW, and facilitate its future growth.

Reckitt Benckiser recently developed a logistics plan to improve the distribution efficiency of locally manufactured and imported products throughout Australia and the surrounding region. The logistics plan was developed in response to new Major Hazard Facility legislation which affects the operation of the current storage facility in West Ryde. The company therefore embarked on a process to identify an alternative warehousing facility outside their existing West Ryde site to accommodate the receipt, storage, picking, and despatch of packaged goods including various classes of dangerous goods, and healthcare products.

A number of sites, including Building A2 in the Westpark Industrial Estate in Erskine Park, were assessed for site suitability. The proposed site was identified as the preferred option as it fulfils Reckitt Benckiser's requirements which include: good access to the M4 and M7 Motorways; a large storage area that is able to contain a temperature controlled area; high quality stormwater and fire water systems in the event of an emergency; and safe proximity from any residential area.

### 1.4 State Plan and Sydney Metropolitan Strategy

The project is consistent with the goals and priorities of the State Plan, particularly Chapter 5 as it would promote economic growth and prosperity in the Sydney Metropolitan Region.

The Capital Investment for this project is \$2.5 million. The facility would employ up to 25 staff within the warehouse. Approximately 10 of these staff would be based fulltime in the office during standard business hours.

The project is consistent with the goals and priorities of the Sydney Metropolitan Strategy as the site will provide for new economic activity in Western Sydney and in particular, development within the designated employment lands.

## 2. STATUTORY CONTEXT

### 2.1 Major Development

The proposal is classified as a major project under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), because it is development for the purpose of 'Chemical, manufacturing and related industries', and therefore triggers the criteria in Clause 10(3) of Schedule 1 of *State Environmental Planning Policy (Major Development) 2005*.

Consequently, the Minister for Planning is the approval authority for the project.

On 4 March 2009, the Minister delegated her powers and functions as an approval authority for certain projects under section 75J of the EP&A Act to the Director-General. This project application meets the terms of this delegation. Under these circumstances, the Director-General may determine the application under delegated authority.

## 2.2 Permissibility

Under Section 75J(3) of the EP&A Act, the Minister cannot approve the carrying out of a project that would be wholly prohibited under an environmental planning instrument.

The *Penrith Local Environment Plan 1994 (Erskine Park Employment Area)* provides the statutory planning framework from the Erskine Park Employment Area. The site is zoned 4(e1)(Employment Restricted Zone).

The proposed development involves warehousing and distribution activities involving dangerous goods. 'Offensive or hazardous storage establishments' are prohibited within the 4(e1)(Employment restricted Zone) as in most industrial areas throughout NSW. However, the provisions of SEPP 33 override the LEP by providing a clear and consistent definition of hazardous and offensive facilities, whereby such activities are considered permissible if they are undertaken in accordance with relevant legislation.

Consequently, the Minister of Planning may approve the project. Under the delegated authority of the Minister of Planning the Director-General may approve the project.

## 2.3 Public Exhibition

Under Section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment of a project publicly available for at least 30 days.

After accepting the environmental assessment for the project, the Department:

- made it publicly available from Wednesday 8 July 2009 until Friday 7 August 2009:
  - on the Department's website;
  - at the Department's Information Centre;
  - at the Penrith City Council Offices; and
  - at the Nature Conservation Council Offices in Sydney.
- notified relevant State government authorities and Penrith City Council by letter;
- notified landowners in the vicinity of the site about the exhibition period by letter; and
- advertised the exhibition period in the Penrith Press.

This satisfies the requirements in Section 75H(3) of the EP&A Act.

During the assessment process the Department also made a number of documents available for download on the Department's website. These documents included the:

- Development Application Form;
- Preliminary Environmental Assessment;
- Director-General's requirements for the environmental assessment of the project;
- Final Environmental Assessment; and
- Preliminary Hazard Analysis.

## 2.4 Environmental Planning Instruments

Under Section 75I of the EP&A Act, the Director-General's report is to include a copy of or reference to the provisions of any:

- *State Environmental Planning Policy* (SEPP) that substantially govern the carrying out of the project and;
- environmental planning instrument that would (but for Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project.

The Department has assessed the proposal against the relevant provisions of several environmental planning instruments and is satisfied that none of these SEPPs substantially govern the carrying out of this project.

Consideration of the Environmental Planning Instruments is provided in Appendix D.



## **2.5 Objects of the Environmental Planning and Assessment Act, 1979**

The Minister's consideration and determination of the application must be consistent with the relevant provisions of the EP&A Act, including the objects set out in the Act's section 5. The objects of most relevance to the Minister's decision on whether or not to approve the proposed project are found in section 5(a)(i), (ii), (iv), (vi) and (vii). They are:

*The objects of this Act are:*

- (a) *to encourage:*
  - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iv) *the provision of land for public purposes,*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
  - (vii) *ecologically sustainable development".*

The Department has fully considered the objects of the EP&A Act, including the encouragement of ESD, in its assessment of the application.

The assessment integrates all significant economic and environmental considerations and seeks to avoid any potential serious or irreversible damage to the environment.

Reckitt Benckiser have also considered a number of alternatives to the proposed project (including the alternative of not proceeding), and considered the project in the light of the principles of ESD.

## **2.6 Statement of Compliance**

Under Section 75I of the EP&A Act, the Director-General's report is required to include a statement relating to compliance with the environmental assessment requirements for the project.

The Department is satisfied that the environmental assessment requirements have been complied with.

## **3. ISSUES RAISED IN SUBMISSIONS**

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During the exhibition period, the Department received two submissions from public authorities: Penrith City Council (Council) and the Department of Environment, Climate Change and Water (DECCW). Copies of these submissions are attached as Appendix E. No submissions were received from members of the public.

Council supported the proposal but raised concerns in relation to hazards (spill response procedures and the transportation of dangerous goods) and odour. These issues have been discussed further in Section 4.

The DECCW supported the proposal subject to recommended conditions of approval.

The Department has considered the general recommendations of both Council and the DECCW, and where necessary, incorporated them into the recommended conditions of approval.

## 4. ASSESSMENT

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### 4.1 Hazards

A Preliminary Hazards Analysis (PHA) was prepared for the project in accordance with *Hazardous Industry Planning Advisory Paper (HIPAP) No. 6 - Hazardous Industry Guidelines*. The PHA is included in the EA as Appendix G, and summarised below.

The PHA determined that the project did not exceed the risk criteria adopted in NSW for individual, societal or bio-physical risk and did not significantly increase the cumulative risk of the overall site.

The risks associated with the proposed activities, being low, would not significantly contribute to the risks associated with the existing activities within the Business Park.

There are two (2) existing facilities, located on the industrial estate that store dangerous goods that could contribute to the risks associated with the surrounding land use. These facilities are:

- Building A1; and
- Building C3/C4.

The cumulative effects of the three (3) buildings were examined against the individual fatality risk criteria in HIPAP No.4. It was found that the cumulative risk of the project did not exceed any established criteria for individual, societal or bio-physical risk.

The PHA included an assessment of hazards associated with the transportation of dangerous goods to and from the site. Based on the assessment, the risk to individuals was found to be low. The analysis calculated the risk to be significantly below the average road fatality rate in NSW, and generally below the acceptable limit for risk exposures to public in residential areas. Thus the risk to the public from road transportation of dangerous good was considered to be acceptable.

The PHA and EA detail a number of recommendations and controls to address hazards associated with the project. These include, but are not limited to:

- development of a Site Evacuation Plan suitable for multiple warehouses storing dangerous goods on the Westpark Industrial Estate;
- material storage to be undertaken in accordance with Australian Standard AS 3833:2007 - *The storage and handling of mixed classes of dangerous goods, in packages and intermediate bulk containers*;
- the Level One and Level Two aerosol are stored closest to the flammable liquids providing greater distances of separation in the event of a fire event;
- maximum storage limits of class Class 2.1, Class 2.1 Subrisk 8, Class 3, and Class 4.1 materials on site;
- bunding requirements to contain spills and defined quantities of fire fighting water; and
- preparation of a Transport Study and Route Selection Report in accordance with the Guidelines for *Land Use and Environmental Planning Hazardous Materials – Road Transport Considerations, Final Draft, DUAP 1995*.

Based on a review of the PHA and associated plans and documentation, the Department has concluded that the PHA has been prepared in accordance with HIPAP No 6, and it addresses the hazard issues related to the project demonstrating that the project would comply with the NSW risk criteria for land use safety planning. As such, the Department is satisfied the project could operate without exceeding any established criteria for individual, societal or bio-physical risk or increasing the level of risk associated with the existing facilities subject to the implementation of the recommendations contained within the PHA and recommended conditions of approval (refer Appendix A - Summarised Conditions).

## 4.1 Summary of Other Issues

A Development Application (DA09/0008) regarding the fitout and occupation of Building A2 was submitted to, and subsequently approved by Penrith City Council on 16 February 2009. This application addressed all potential environmental impacts resulting from the proposed activities including traffic generation, noise, staff numbers, non-dangerous goods and fitout related activities.

Given that the proposed project is for a change of use within an existing facility, all other environmental impacts are considered to be minor.

Table 3: Other Issues

Issue	Assessment	Recommended Condition
Odour	<ul style="list-style-type: none"> <li>The storage of dangerous goods has the potential to emanate odours from the site.</li> <li>The Department is satisfied that any potential odour impacts can be managed and/or mitigated.</li> </ul>	<ul style="list-style-type: none"> <li>Recommended conditions include the following provision; <i>the Proponent shall not cause or permit the emission of offensive odours from the site, as defined under Section 129 of the Protection of the Environment Operations Act 1997.</i></li> </ul>
Traffic	<ul style="list-style-type: none"> <li>The project would not result in any additional traffic movements.</li> <li>The assessment of impacts associated with the transportation of dangerous goods is addressed in section 4.1.</li> <li>The Department is satisfied that potential impacts associated with the transportation of dangerous goods has been addressed and can be managed and/or mitigated.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
Noise	<ul style="list-style-type: none"> <li>The project would not result in any additional noise from the site.</li> <li>Noise attenuation was addressed at a strategic level during the development of the Westpark Industrial Estate.</li> <li>Council has approved 24 hours per day, 7 days per week operation of the site.</li> <li>The Department is satisfied that any potential noise impacts can be managed and/or mitigated.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
Waste	<ul style="list-style-type: none"> <li>The waste generated on the site would include; general industrial waste, packing materials in the containers, stretch wrap of the pallets and general site waste.</li> <li>Reckitt Benckiser proposes to dispose of all waste in accordance to the specific Product Safety Data Sheets available and at an approved waste disposal facility.</li> <li>Any spills would be contained and disposed of in accordance with the Product Safety Data Sheets and current legislation.</li> <li>No on-site waste treatment facilities would be used.</li> <li>The Department is satisfied that waste generated from the project can be adequately managed and/or mitigated.</li> </ul>	<ul style="list-style-type: none"> <li>Recommended conditions require Reckitt Benckiser to ensure that all waste generated on site during operation of the project is classified in accordance with the DECCW's Waste Classification Guidelines: Part 1 Classifying Waste, and appropriately disposed of to a facility that may lawfully accept the waste.</li> </ul>
Water	<ul style="list-style-type: none"> <li>The project has the potential to result in pollution of waters.</li> <li>The Department is satisfied that the potential for water to be polluted from the project can be adequately managed and/or mitigated.</li> </ul>	<ul style="list-style-type: none"> <li>Recommended conditions include the following provision: <i>Except as may be expressly provided in an EPL for the project, the Proponent shall comply with Section 120 of the POEO Act.</i></li> </ul>

The Department has assessed the project, in accordance with the requirements of Clause 8B of the *Environmental Planning and Assessment Regulation 2000*, and considers that potential impacts of the project can be suitably managed to ensure an acceptable level of environmental performance.

## **5. RECOMMENDED CONDITIONS OF APPROVAL**

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The Department has prepared recommended conditions of approval for the project which are summarised in Appendix A and included in Appendix B.

These conditions are required to:

- prevent, minimise, and/or offset adverse impacts of the project;
- set standards and performance measures for acceptable environmental performance;
- ensure regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

Reckitt Benckiser does not object to the imposition of the recommended conditions.

## **6. CONCLUSION**

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The Department has assessed the merits of the project having regard to the objects of the EP&A Act and the principles of ecologically sustainable development. This assessment has concluded that with the implementation of the recommended conditions of approval, the impacts of the project can be mitigated and/or managed to ensure an acceptable level of environmental performance.

The Department recognises the importance of the storage of dangerous goods to Reckitt Benckiser's business as it would allow for increased growth, and with it, increase employment opportunities. Importantly, the Department also notes that the project would assist with the delivery of the *State Plan* and the *Sydney Metropolitan Strategy*, as the site is located within the strategy's designated employment lands and would employ 40 workers during construction and up to 25 workers during operation. The Project would also support and contribute to growth within the Western Sydney Employment Area's significant warehousing industries.

Consequently, the Department believes that the project is in the public interest, and should be approved subject to conditions.

## 7. RECOMMENDATION

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It is RECOMMENDED that the Director-General:

- **consider** the findings and recommendations of this report;
- **approve** the project subject to conditions; and
- **sign** the instrument of approval (see Appendix B).

Christine Chapman  
Industry and Mining  
Major Development Assessment  
Tel: 9228 6537

  
21/8/09.


Chris Ritchie  
Manager- Industry  
Major Development Assessment

  
21/8/09

David Kitto  
Director  
Major Project Assessment

  
25.8.09

Chris Wilson  
Executive Director

  
26/8/2008.

Sam Haddad  
Director-General

## APPENDIX A – SUMMARY OF CONDITIONS OF APPROVAL

Aspect	Condition No.	Requirement
<b>Schedule 3: Specific Environmental Conditions</b>		
<b>Hazards</b>	<b>8-14</b>	<ul style="list-style-type: none"> <li>The Proponent shall prepare and submit for approval the following:               <ol style="list-style-type: none"> <li>Fire Safety Study</li> <li>Final Hazard Analysis</li> <li>Emergency Plan; and</li> <li>Safety Management Plan.</li> <li>Pre-commissioning compliance report</li> <li>register of accidents, incidents and potential incidents</li> </ol> </li> <li>Twelve months after the commencement of operations the Proponent shall carry out a comprehensive Hazard Audit of the project, include a review of the site Safety Management System, and submit an audit report to the Director General.</li> </ul>
<b>Waste</b>	<b>15</b>	<ul style="list-style-type: none"> <li>The Proponent shall ensure that all waste generated on site during operation of the project is classified in accordance with the DECCW's Waste Classification Guidelines: Part 1 Classifying Waste, and appropriately disposed of to a facility that may lawfully accept the waste</li> </ul>
<b>Air</b>	<b>16-17</b>	<ul style="list-style-type: none"> <li>The Proponent shall not cause or permit the emission of offensive odours from the site, as defined under Section 129 of the Protection of the Environment Operations Act 1997.</li> <li>The Proponent shall carry out reasonable and feasible measures to minimise dust generation by the project.</li> </ul>
<b>Water</b>	<b>18</b>	<ul style="list-style-type: none"> <li>Except as may be expressly provided in an EPL for the project, the Proponent shall comply with Section 120 of the POEO Act</li> </ul>
<b>Schedule 4: Environmental Reporting</b>		
<b>Environmental Management Strategy</b>	<b>19</b>	<ul style="list-style-type: none"> <li>The Proponent shall prepare and implement an Environmental Management Strategy for the project to the satisfaction of the Director-General.</li> </ul>
<b>Environmental Reporting</b>	<b>20-21</b>	<ul style="list-style-type: none"> <li>Within 24 hours of detecting an exceedance of the limits/performance criteria in this approval or the occurrence of an incident that causes (or may cause) harm to the environment, the Proponent shall notify the Department and other relevant agencies of the exceedance/incident.</li> </ul>
<b>Auditing</b>	<b>22</b>	<ul style="list-style-type: none"> <li>Within 12 months of the commencement of operations, and every 3 years thereafter, unless the Director-General directs otherwise, the Proponent shall commission and pay the full cost of an Independent Environmental Audit of the project.</li> </ul>



## **APPENDIX B – PROJECT APPROVAL**

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Refer Website

## **APPENDIX C – DEVELOPMENT CONSENT (DA09/0008)**



# PENRITH CITY COUNCIL

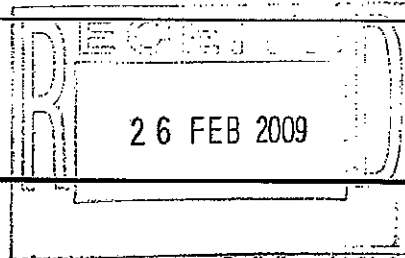
*Serving Our Community*

## DETERMINATION OF DEVELOPMENT APPLICATION

P E N R I T H C I T Y C O U N C I L

### DESCRIPTION OF DEVELOPMENT

DA No.	DA09/0008
Description of development	Fitout and Occupation of a Warehouse Building (A2) for the purposes of storage and distribution
Classification of development	The classification of the building(s) forming part of this consent is as follows: <ul style="list-style-type: none"><li>▪ Class 5 – Office</li><li>▪ Class 7b – Warehouse</li></ul>



### DETAILS OF THE APPLICANT

Name & Address	FDC Construction And Fitout Pty Ltd PO Box 425 CAMPERDOWN NSW 1450
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### NOTES

1. Your attention is drawn to the attached conditions of consent attachment 1.
2. You should also check if this type of development requires a construction certificate in addition to this development consent.
3. It is recommended that you read the Advisory Note enclosed with this consent.

## **DETAILS OF THE LAND TO BE DEVELOPED**

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Legal Description: Lot 1 DP 1128233  
Property Address: 23-107 Erskine Park Road ERSKINE PARK NSW 2759

## **DECISION OF CONSENT AUTHORITY**

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In accordance with Section 81(1)(a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions implementation in attachment 1.

Date from which consent operates 16 February 2009  
Date the consent expires 16 February 2011  
Date of Decision 16 February 2009

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

## **REVIEW OF DETERMINATION & RIGHTS OF APPEAL**

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1. The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 12 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development, or State Significant development.

2. The applicant can appeal against this decision in the Land and Environment Court within 12 months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

3. Right of Appeal if the application was for Designated Development  
If a written objection was made in respect to the Application for Designated Development, the objector can appeal against Council's decision to the Land and Environment Court within 28 days after the date of this Notice. The objector cannot appeal if a Commission of Inquiry was held.

If the applicant appeals against Council's decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

## REASONS

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The conditions in the attached schedule have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instrument.
- To ensure that no injury is caused to the existing and likely future amenity of the neighbourhood.
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure that satisfactory arrangements are made to satisfy the increased demand for public recreation facilities.
- To ensure that access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.

## POINT OF CONTACT

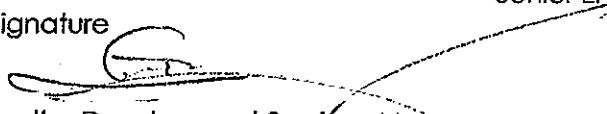
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If you have any questions regarding this consent you should contact:

Assessing officer	Steven Chong
Contact telephone number	(02) 4732 8078

## SIGNATURE

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Name	Steven Chong
	Senior Environmental Planner
Signature	
For the Development Services Manager	

## ATTACHMENT 1: CONDITIONS OF CONSENT

### GENERAL

- 1 The development must be implemented substantially in accordance with the Building A2 plan numbered 3527\_DA002, drawn by Nettleton Tribe and dated September 2008, and stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.
- 2 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 5 No retail sale of goods shall be conducted from the subject premises.
- 6 All materials and goods associated with the use shall be contained within the building at all times.
- 7 Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 8 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

### ENVIRONMENTAL MATTERS

- 9 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 10 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.



## BCA ISSUES

- 11 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- 12 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
  - (a) deal with each essential fire safety measure in the building premises, and
  - (b) be given:
    - within 12 months after the last such statement was given, or
    - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
  - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 13 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
    - (a) complying with the deemed to satisfy provisions, or
    - (b) formulating an alternative solution which:
      - complies with the performance requirements, or
      - is shown to be at least equivalent to the deemed to satisfy provision, or
    - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

## CONSTRUCTION

- 14 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and

- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed **when the Occupation Certificate has been issued for the development.**

15

**Prior to the commencement of construction works:**

- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
  - a standard flushing toilet connected to a public sewer, or
  - if that is not practicable, an accredited sewage management facility approved by the council, or
  - alternatively, any other sewage management facility approved by council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).
- (d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:
  - if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
  - the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and any such hoarding, fence or awning is to be removed when the work has been completed.

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Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval **prior to the issue of a Construction Certificate.**

17

Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other

equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

## LANDSCAPING

- 18 Existing landscaping is to be retained and maintained at all times.

## CERTIFICATION

- 19 **Prior to the commencement of any earthworks, construction or demolition works on site, the proponent is to:**
- a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
  - b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

### Information to accompany the Notice of Commencement

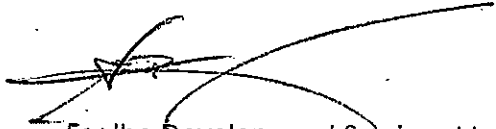
Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 20 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation of the tenancy and commencement of the approved use**. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

**Before the Occupation Certificate can be issued for the development, [Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.**

Steven Chong

Signature

A handwritten signature in black ink, consisting of a stylized 'S' followed by a long horizontal stroke that curves upwards at the end.

For the Development Services Manager



## **ADVISORY NOTES for COMMERCIAL/ INDUSTRIAL DEVELOPMENT**

These advisory notes have been developed for your information and should be read in conjunction with Council's Notice of Determination issued for your development.

You will need to obtain a Construction Certificate before you can commence any construction works on the site. You can apply to Penrith Council or an appropriately accredited certifier for the Certificate. The application should include detailed plans, specifications and other documentation that may have been specified in the consent Notice.

If Penrith Council is the Principal Certifying Authority for the development, an inspection regime should be obtained from Council relating to your development to ensure that inspections are undertaken for the relevant stage of construction.

Any inspection request to Penrith Council should be made at least 24 hours (by phone) or by 4.00pm on the weekday before the inspection is required. The approved fee must be paid for the inspection. Council does not accept facsimile requests for inspections.

Major Utilities "Dial Before You Dig Service". Damage to underground cables, pipework and other utility services are a serious problem. Damage to major underground utilities can be avoided by calling the "Dial Before You Dig Service" on 1100 and following simple guidelines provided by the operators on this telephone number. Individuals and companies who do not follow these simple procedures may be found to be financially liable for damage cause to major utilities. Consideration should also be made for other non-member utility providers who do not participate in the "Dial Before You Dig Service".

As part of all construction works, you need to liaise with appropriate authorities and utility providers, which include (but not limited to) Integral Energy or other energy suppliers/ providers, Sydney Water (particularly for the disposal of trade waste), a Telecommunications provider, Australia Post, WorkCover Authority, other relevant State and Federal Government departments.

A Fire Safety Certificate will need to be issued for the building/use before you can request the Principal Certifying Authority to issue you with an Occupation Certificate. The Occupation Certificate needs to be issued before you can occupy the new building (work), or use the building or part of the building (the subject of the consent). Failure to obtain the Occupation Certificate is an offence and is subject to a penalty under the Environmental Planning and Assessment Act 1979.

**The following matters should also be considered, where appropriate-**

For development including an on-site detention system (OSD), you are advised that the OSD levels are critical and should be carefully checked prior to and during construction of the system to ensure they are built in accordance with the approved plans and that the system will have the required volume of storage.

For development involving a food shop, Penrith Council's Public Health Unit should be contacted to arrange a final inspection of the food shop prior to commencement of operation of the business. The final inspection is to assess compliance with the Australian Institute of Environmental Health's "National Code for the Construction and Fitout of Food Premises" 1993, the Food Act 1989 and accompanying Regulation.

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## **APPENDIX D – CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS**

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### **State Environmental Planning Policy (SEPP) (Major Development) 2005**

SEPP (Major Development) 2005 Schedule 1 lists the type of development typically considered to be development to which Part 3A applies. Clause 10 in Schedule 1 refers to 'Chemical, manufacturing and related industries'. In particular, Clause 10(3) describes that,

*Development for the purpose of the manufacture, storage or use of dangerous goods in such quantities that constitute the development as a major hazard under the Control of Major Hazard Facilities National Standard [NOHSC: 1014 (2002)].*

The proposed quantities of dangerous goods to be stored at the facility will constitute the development as a Major Hazard Facility as outlined within Section 3.2 of the Preliminary Hazard Analysis.

The Director-General of the Department of Planning has determined that the project is a kind that is described in Schedule 1 of the Major Development SEPP.

### **2SEPP No.33 – Hazardous and Offensive Development**

The proposed quantities of dangerous goods to be stored at the facility exceed the threshold limits established for SEPP 33. A Preliminary Hazard Assessment has been prepared and has concluded that the risks associated with the proposal were low. The potential cumulative impacts of the proposal do not exceed any established criteria for individual, societal or bio-physical risk in the Department of Planning Risk Criteria from Land Use Safety Planning - HIPAP No. 4.

### **SEPP (Western Sydney Employment Hub) 2008**

The project is consistent with the aims of the SEPP (WSEH) as it would assist in meeting the objectives of the Sydney Metropolitan Strategy, providing new economic activity and creating employment opportunities in Western Sydney. The revised SEPP, once gazetted, will rezone the site from the current 4(e1) Employment Restricted Zone to a standardised industrial zone. This will have little effect in regards to the proposed project.

### **Penrith Local Environmental Plan (LEP) 1994 (Erskine Park Employment Area)**

Penrith Local Environmental Plan provides development controls for development in the Erskine Park Employment Area. The proposed facility is located in land zoned 4(e1) (Employment Restricted Zone). 'Offensive or hazardous storage establishments' are prohibited within this zone, however, SEPP 33 overrides the LEP by providing a clear and consistent definition for hazardous or offensive facilities, whereby such activities are considered permissible if they are undertaken in accordance with relevant legislation. The Department is satisfied that the proposed facility is consistent with the objectives of the zone.



## **APPENDIX E – SUBMISSIONS**

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Refer Website

## **APPENDIX F – RESPONCES TO SUBMISSIONS**

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Refer Website

## **APPENDIX G – ENVIRONMENTAL ASSESSMENT & PHA**

Refer Website