

**ASSESSMENT REPORT:
Westpark Industrial Estate
Chemical Storage and Distribution Facility
(SSD-4953)**



Director-General's
Assessment Report
Section 89E of the
Environmental Planning and Assessment Act 1979

May 2012

ABBREVIATIONS

Applicant	Prime Constructions Pty Ltd, or any other person or persons who rely on this consent to carry out the development that is subject to this consent
BCA	Building Code of Australia
CIV	Capital Investment Value
Consent	This development consent
Council	Penrith City Council
DA	Development Application
Department	Department of Planning & Infrastructure
DGRs	Director-General's environmental assessment requirements
Director-General	Director-General of the Department
EIS	Environmental Impact Statement titled ' <i>Dangerous Goods Storage Facility 23-107 Erskine Park Road, Erskine Park NSW 2759 (Lot 1 DP 1128233)</i> ' and accompanying appendices, dated November 2011 and prepared by McKenzie Group Consulting
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
Minister	Minister for Planning & Infrastructure
NOW	Department of Primary Industries - NSW Office of Water
RMS	Roads and Maritime Services
RTS	Response to Submissions titled ' <i>Response to Submissions Dangerous Goods Storage Facility 23-107 Erskine Park Road, Erskine Park NSW 2759 (Lot 1 DP 1128233)</i> ' and accompanying appendices, dated March 2012 and prepared by McKenzie Group Consulting
SEPP	State Environmental Planning Policy
SEPP 33	<i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i>
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State significant development
WSEA SEPP	<i>State Environmental Planning Policy (Western Sydney Employment Area) 2009</i>

Cover Photograph: Westpark Industrial Estate and Approved Warehouse Building B1

© Crown copyright 2012
Published May 212
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

EXECUTIVE SUMMARY

In 2003, Penrith City Council (Council) approved a masterplan for the staged development of the Westpark Industrial Estate (the Estate) at Erskine Park in the Penrith local government area.

The Estate included three warehouse structures (A, B and C) and is located in the Western Sydney Employment Area.

In July 2008, a development application (DA) for the construction of warehouse Building B (including two separate tenancies, B1 and B2) was approved by Council and in August 2011, a separate DA for the fit-out and operation of Building B1 as a non-dangerous good warehouse and distribution facility was also approved by Council.

Until recently, the intended use of Building B1 did not include any storage of dangerous goods or materials. The lessee of the building, DHL, has since reviewed its intended use of the facility and has determined that the storage and handling of dangerous goods (predominantly aerosols) will be required within Building B1.

DHL now proposes to use Building B1 to store a range of products, including some dangerous goods. The proposal involves the storage of dangerous goods in quantities exceeding the criteria for a Major Hazard Facility under the *Work Health & Safety Regulation 2011*, and as such meets the criteria in Clause 10(3) of Schedule 1 in *State Environmental Planning Policy (State and Regional Development) 2011*. Consequently, the proposal is classified as a State Significant Development (SSD), and requires approval under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) from the Minister for Planning and Infrastructure.

The proposed development has a capital investment value of \$600,000 and would employ approximately 60 full-time staff during operation.

The Department exhibited the DA and Environmental Impact Statement (EIS) for the proposal from Monday 12 December 2011 until Tuesday 31 January 2012 and received 12 submissions, including 6 from government agencies and 6 from the general public.

Key issues raised in submissions included hazards and risk, safety, the potential for chemical spills/leaks and air quality impacts.

In its assessment of the proposal, the Department has fully considered all relevant matters under Section 79C of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development.

The Department found that the impacts of the development can be mitigated and/or managed to ensure an acceptable level of environmental performance. Further, the development would increase employment opportunities in Western Sydney and is consistent with the aims and objectives of the Metropolitan Strategy for Sydney 2036 and *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

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

1. BACKGROUND

1.1 Development Background

The Westpark Industrial Estate is located in the north-west corner of the 'Erskine Park Employment Lands Precinct' of the Western Sydney Employment Area as identified in *State Environmental Planning Policy (Western Sydney Employment Area) 2009* (WSEA SEPP, see Figure 1). The part of the site to be developed is zoned 'IN1 General Industrial' under this policy.

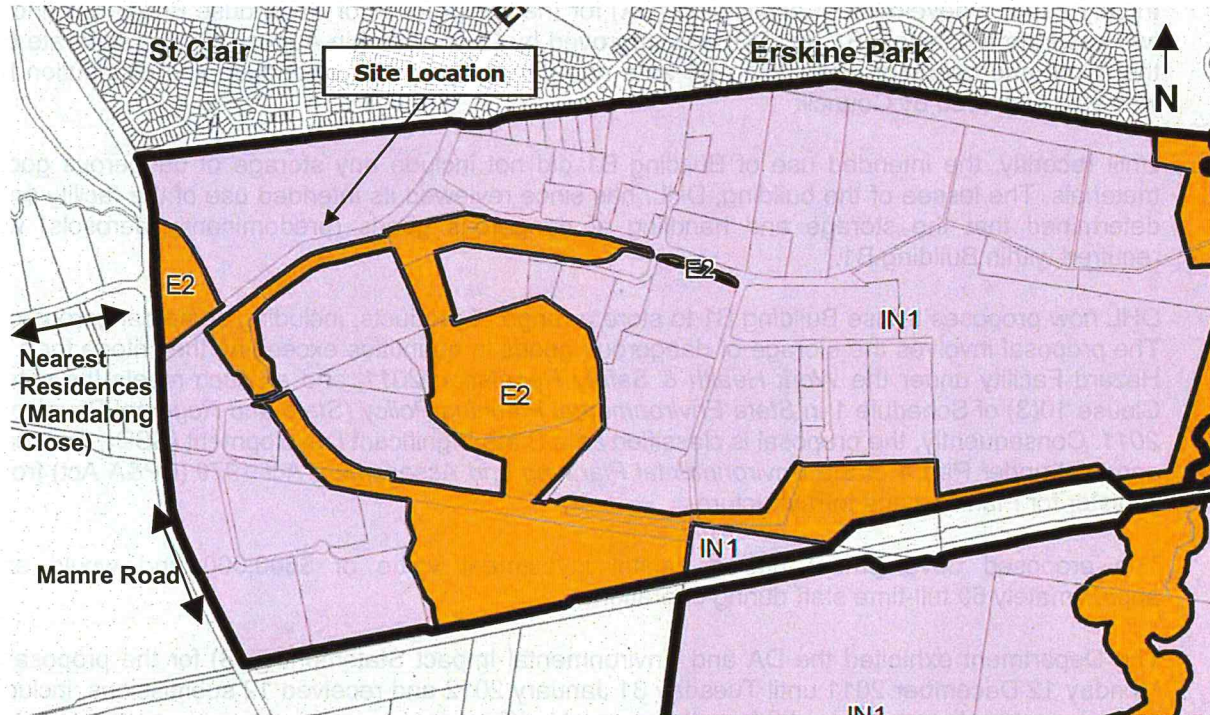


Figure 1: Westpark Industrial Estate location in Erskine Park Employment Lands Precinct (7)

In 2003, Penrith City Council (Council) approved a masterplan (DA 06/0240) for the staged development of the Westpark Industrial Estate (the Estate) on a 38.84 hectare (ha) site (Lot 1 DP 1128233) at Erskine Park in the Penrith local government area. The Estate included three warehouse structures (A, B and C), each with smaller building units (see Figure 2). Since 2003, Council has issued a number of development consents for the construction, occupation and use of some of these units for warehousing and distribution.

In particular, DA 08/0345 for the construction of warehouse Building B (including two separate tenancies, B1 and B2) in the Estate was approved by Council on 14 July 2008. Council's assessment of this DA addressed all construction related impacts including earthworks, construction traffic, construction noise, parking, dust, visual (design), landscaping, soil and water impacts including stormwater management. The occupation of these tenancies did not form part of this consent.

A separate DA (DA 11/0302) for the fit-out and operation of Building B1 as a non-dangerous good warehouse and distribution facility to accommodate DHL's operations was subsequently lodged and also approved by Council on 5 August 2011. This DA permitted the facility to operate between 6am and 10pm, seven days a week.

DA 11/0302 also approved the erection of six business identification signs and fire walls on the eastern and western sides of Building B1. Council's assessment of this DA addressed all environmental impacts from fit-out and operation including signage, traffic (including parking), noise, air and waste management. A copy of the instrument of consent for DA 11/0302 is attached at Appendix G of this report.

The nearest residences are rural residences located approximately 270 metres to the west of the site across Mamre Road in Mandalong Close (see Figure 1). Figure 2 illustrates the location of Building B1 within the Westpark Industrial Estate while Figures 3 and 4 illustrate the approved layout and design of Building B1.



Figure 2: Masterplan of the Westpark Industrial Estate (DA 06/0240)

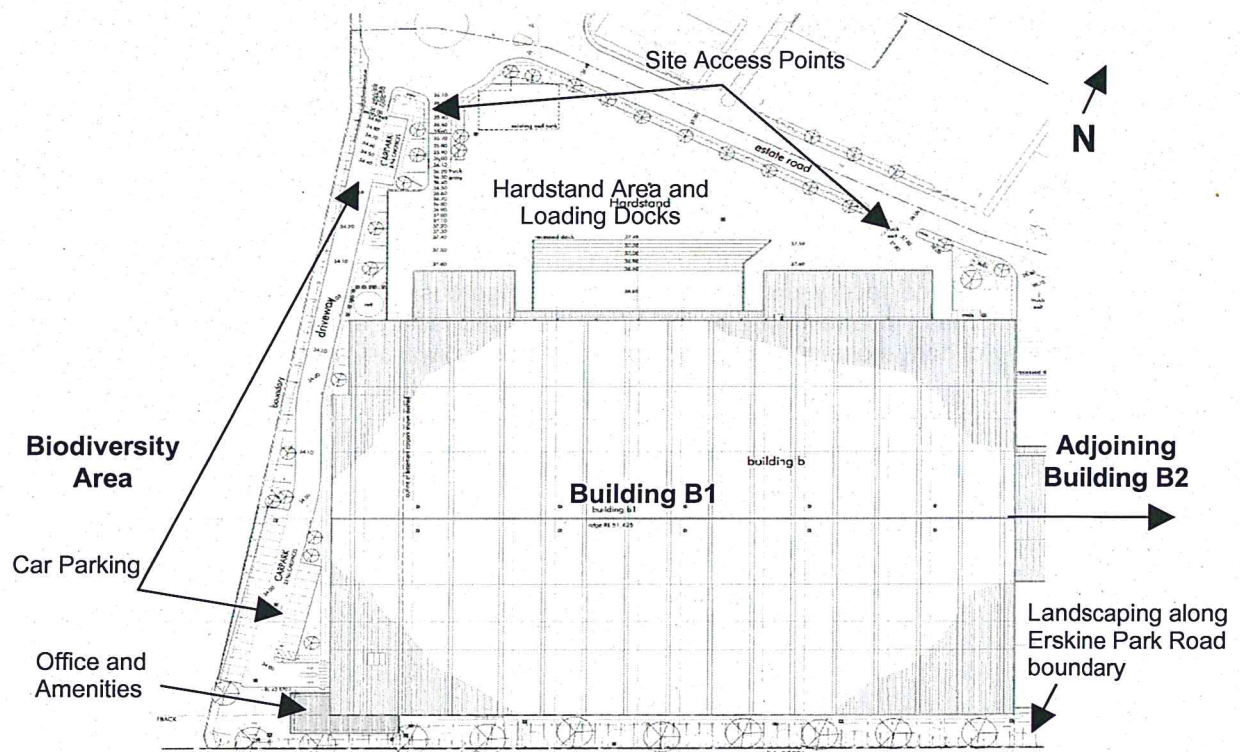


Figure 3: Layout of Approved Building B1 (DA 08/0345)

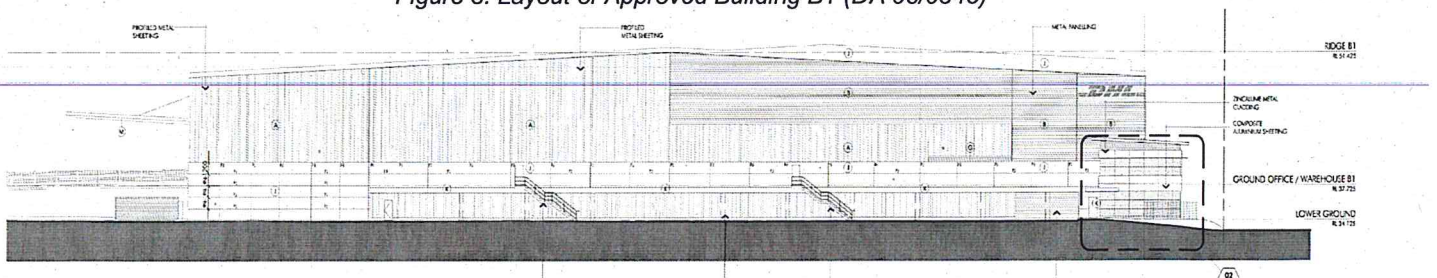


Figure 4: Western Elevation of Approved Building B1

1.2 Other approvals

Two warehouses on the Westpark Industrial Estate (Building A1 and C3) have also received Council approval for the storage of dangerous goods in quantities below the threshold/s for SSD. In addition, on 26 August 2009, the then Minister for Planning gave project approval under Part 3A of the EP&A Act to Reckitt Benckiser (Australia) Pty Ltd to use Building A2 in the Westpark Industrial Estate to store a range of products, including some dangerous goods in quantities exceeding the criteria for a Major Hazards Facility (MHF).

A summary of all existing approved activities in the Westpark Industrial Estate is provided in Table 1 below.

Table 1: Existing approved activities within the Westpark Industrial Estate

Warehouse	Leased By	Status	Activity	Consent Authority
A1	Kagan	Operational	Storage of paint and related products	Council
A2	Reckitt Benckiser	Operational	Storage of household chemicals and cosmetics (Major Hazards Facility)	Former Minister for Planning
A3	Sony DADC	Operational	Storage of digital equipment	Council
B1	DHL	Under Construction	Storage and distribution of non-dangerous goods	Council
B2	TBC*	Under Construction	Storage and distribution of non-dangerous goods	Council
C1	Capral	Operational	Storage of aluminum products and systems	Council
C2	SCA Hygiene	Operational	Storage of household hygiene products	Council
C3/C4	Kagan	Operational	Storage of paint and related products, food additives and assorted agricultural chemicals	Council

*TBC – to be confirmed

1.3 Development Need

At the time of lodgement of DA 11/0302 with Council for the fit-out and operation of Building B1, the intended use of the facility did not include any dangerous goods or materials. The lessee of the building, DHL, has since reviewed its intended use of the facility and has determined that the storage and handling of dangerous goods (predominantly aerosols) will be required within Building B1.

2. PROPOSED DEVELOPMENT

2.1 Description

The Applicant, Prime Constructions (Prime) is now seeking approval for the storage of dangerous goods (mainly aerosol cans) within Building B1 of the Westpark Industrial Estate.

Most notably, the proposal includes the storage of around 1,700 tonnes of aerosol household products which are classified as Dangerous Goods Class 2.1 under the Australian Dangerous Goods Code (Edition 7). This substantially exceeds the MHF threshold of 200 tonnes for the storage of Class 2.1 materials, and as such meets the criteria in Clause 10(3) of Schedule 1 in *State Environmental Planning Policy (State and Regional Development) 2011*. Consequently, the proposal is classified as a SSD, and requires approval under Part 4 of the EP&A Act from the Minister for Planning and Infrastructure.

The major components of the development are summarised in Table 2, and depicted in Figure 5. The proposed development is described in full in McKenzie Group Consulting's Environmental Impact Statement (EIS), which is attached as Appendix C.

Table 2: Main Development Components

Aspect	Description
Development Summary	The proposed development includes the use of an approved warehouse building B1 in the Westpark Industrial Estate for the storage and distribution of chemicals including some classified as dangerous goods. The proposal specifically includes ancillary fit-out and associated infrastructure.
Fit-out and Building Works	- new racking layout to address separation requirements for dangerous goods; - dangerous goods enclosure with chainwire mesh; - internal bunding of 435,000 litres, as 180,000 litres for aerosol storage and 255,000 litres for general racked storage; and - fire services including sprinkler system and installation of isolation valves for contaminated stormwater run-off.
Plant and Equipment	Electric battery-operated forklifts, ride-on movers and pallet stretch wrap machines.
Car Parking	A total of 41 spaces has been approved by Council for Building B1.
Hours of Operation	6am to 10pm, 7 days a week
Capital Investment Value	\$600,000
Employment	Approximately 60 full-time equivalent jobs including: 10 staff in the office during standard business hours; 30 staff for day shift (1) from 6am – 1pm; and 20 staff for evening shift (2) from 1pm – 10pm.

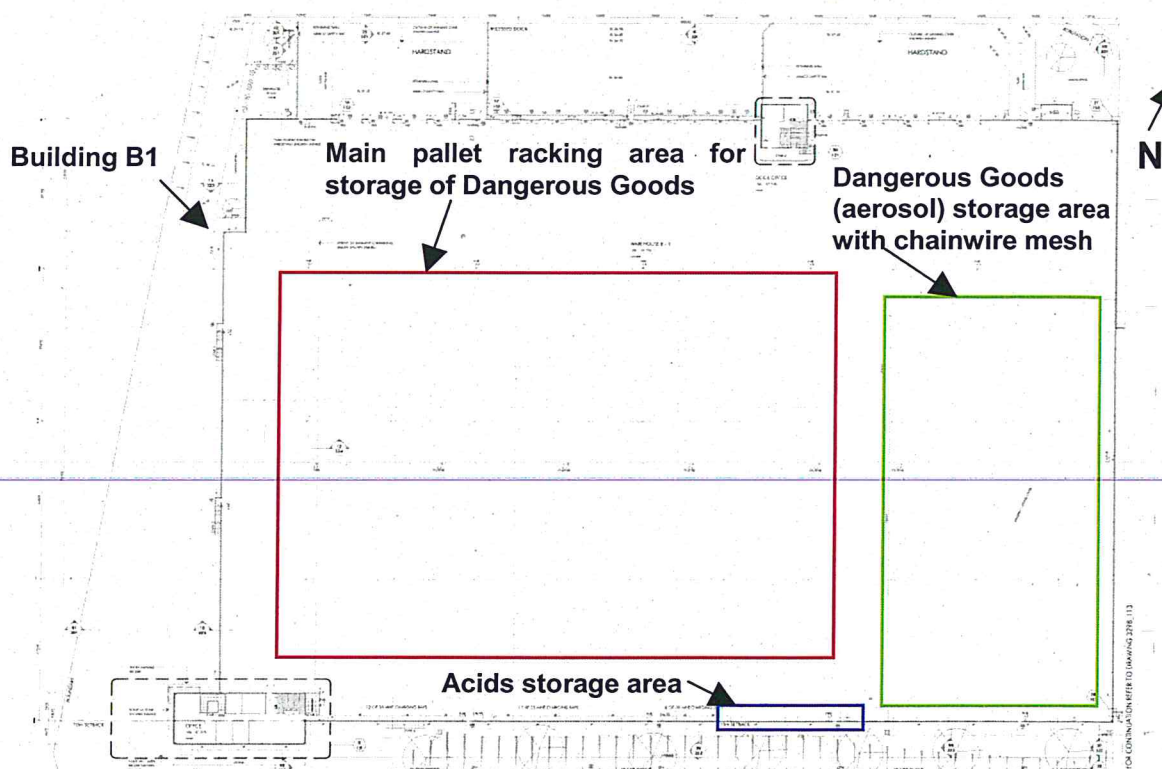


Figure 5: Proposed Internal Floor and Storage Plan for Building B1

Once fully constructed, Building B1 will have a total floor space area of 20,650m², which is made up of 20,000m² of warehouse storage space and 650m² of office space. The office will contain meeting rooms, offices and amenities. The facility will also have 18 loading docks. All features of the base building have already been approved by Council under DA 11/0302.

It is now proposed to store dangerous goods in Building B1. The storage of the dangerous goods in Building B1 is the subject of this application and assessment. A summary of the maximum quantities of dangerous goods to be stored in the building is shown in Table 3 below.

Table 3: Dangerous Goods and Maximum Quantities to be Stored in Building B1

Dangerous Goods Description	Dangerous Goods Class	UN Numbers	Maximum Quantity Stored	Representative Product/s
Aerosols	2.1	UN 1950	1,700,000Kg	Oven, carpet cleaner and fly spray aerosols
Acidic Solids	8	UN 3260	101,100Kg	Household bleach
Acidic Liquids	8	UN 3264	44,700Kg	Bathroom cleaner
Alkali Liquids	8	UN 1719 UN 3266	989,700Kg	Hair removal cream Bathroom cleaning gel

3. STATUTORY AND STRATEGIC CONTEXT

3.1 State Significant Development

The proposal is SSD under Part 4 of the EP&A Act because it involves the storage of dangerous goods in quantities exceeding the criteria for a Major Hazard Facility, and as such meets the criteria in Clause 10(3) of Schedule 1 in the SRD SEPP. Consequently, the Minister for Planning and Infrastructure is the consent authority for the proposed development.

On 14 September 2011, the Minister delegated his functions to determine SSD applications to the Executive Director, Major Projects Assessment, of the Department where:

- the relevant local council has not made an objection, and
- there are less than 10 public submissions objecting to the proposed development, and
- a political disclosure statement has not been made in relation to the application.

There have been 6 public submissions objecting to the proposed development and Council has not made an objection to the proposed development. In addition, no political disclosure statement was made for this application or any previous related application, and no disclosures were made by any persons who have lodged an objection to this application.

Accordingly, the application is able to be determined by the Executive Director under delegation.

3.2 Permissibility

The site is zoned 'IN1 General Industrial' under the WSEA SEPP.

The proposed development involves warehousing and distribution activities involving the storage of dangerous goods. The proposal is permissible with consent on the subject site as a 'warehouse and distribution centre'.

Consequently, under delegated authority of the Minister of Planning and Infrastructure, the Executive Director, Major Projects Assessment, may approve the development.

3.3 Integrated Approvals

Under Section 89K of the EP&A Act, a number of further approvals are required to be obtained, but must be approved in a manner that is consistent with any Part 4 approval for the SSD under the EP&A Act.

In this case, the proposal requires an Environmental Protection Licenses (EPL) under the *Protection of the Environment Operations Act 1997*.

The Department has consulted with the Environment Protection Authority (EPA) and considered the relevant issues relating to the issue of an EPL in the assessment of the proposal (see Section 5 of this report).

3.4 Considerations under Section 79C of the EP&A Act

Under Section 79C of the EP&A Act, in determining a development application, a consent authority is required to take a number of matters into consideration in relation to the proposed development. The Department has given due consideration to the matters prescribed by Section 79C

The Department's detailed consideration of the proposed development against the provisions of Section 79C of the EP&A Act is contained within Appendix B of this report.

3.5 Exhibition and Notification

Under Section 89F(1) of the EP&A Act, the Director-General is required to make the DA and any accompanying information of an SSD proposal publicly available for at least 30 days.

After accepting the Environmental Impact Statement (EIS) for the proposal, the Department:

- made it publicly available from **Monday 12 December 2011** until **Tuesday 31 January 2012**;

- on the Department's website;
- at the Department's Information Centre;
- at the Nature Conservation Council's Sydney office; and
- Penrith City Council administrative office.
- notified landowners in the vicinity of the site about the exhibition period by letter;
- notified relevant State government authorities and Penrith City Council by letter; and
- advertised the exhibition in the Penrith Press and the Penrith Western Weekender.

3.6 NSW 2021 and Metropolitan Strategy for Sydney 2036

The development is consistent with the goals and priorities of NSW 2021, particularly Chapter 1 as it would contribute to building the NSW economy by promoting economic and employment growth in the Sydney Metropolitan Region.

The Capital Investment Value for this development is \$600,000. The facility would also employ up to 60 full-time staff within the warehouse.

The proposal is also consistent with the goals and priorities of the Metropolitan Strategy for Sydney 2036 (Metro Plan) as the site will provide for new economic activity in Western Sydney and in particular, enhancing development on designated employment lands in the WSEA.

The broad aims of the Metro Plan are to be implemented through ten sub-regional plans, including the Draft North West Subregional Strategy which covers the subject site. The proposal would assist in achieving employment targets identified in the Metro Plan and the Draft North West Subregional Strategy.

3.7 State Environmental Planning Policy (Western Sydney Employment Area) 2009

In August 2009, the WSEA SEPP was gazetted which established up to 2,200ha of land for employment purposes in western Sydney to be known as the WSEA.

The development of a number of precincts within the WSEA is well advanced. The Minister has approved a number of projects within Eastern Creek (Precinct 2) and Erskine Park (Precinct 7), including warehousing and distribution centres, manufacturing facilities and data centres.

The subject site is located in the north-west corner of the WSEA in the 'Erskine Park Employment Lands Precinct' (Precinct 7) and as such, the WSEA SEPP applies to the proposed development (see Figure 1). The proposal is consistent with the intent of the SEPP by providing employment opportunities on suitably zoned land that has been strategically identified for this purpose by the NSW Government.

3.8 Environmental Planning Instruments

Under Section 79C of the EP&A Act, the consent authority, when determining a development application, must take into consideration the provisions of any environmental planning instrument (EPI), draft EPI (that has been subject to public consultation and notified under the EP&A Act) and development control plan/s (DCPs) that apply to the proposal.

While DCPs do not apply to SSD under Clause 11 of the SRD SEPP, the Department has considered the provisions of relevant DCPs in Appendix F of this report.

The Department has assessed the proposal against the relevant provisions of several EPIs and DCPs and is satisfied that, subject to the implementation of the recommended conditions of approval, the proposal is generally consistent with the aims, objectives and provisions of these instruments (see Appendix F).

3.9 Objects of the EP&A Act

In determining the application, the consent authority should consider whether the proposal is consistent with the relevant objects of the EP&A Act. These objects are detailed in Section 5 of the Act, and include:

- (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,
- (iii) the protection, provision and co-ordination of communication and utility services,
- (iv) the provision of land for public purposes,
- (v) the provision and co-ordination of community services and facilities, and
- (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, and
- (viii) the provision and maintenance of affordable housing, and
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

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

The Department considers that objects (i), (ii), (vi) and (vii) are relevant to the merit assessment of this application. The Department has given due consideration of these objects in its assessment of the proposal (see Table 4 below).

Table 4: Objects of the EP&A Act and relevance to the development

Object	Consideration
5(a)(i)	The proposal would ensure the proper management and development of land in the WSEA for the social and economic welfare of the community including the provision of approximately 60 full-time equivalent jobs in western Sydney.
5(a)(ii)	The subject site is located on suitably zoned land that has been strategically identified for employment purposes by the NSW Government.
5(a)(vi)	The Department's assessment in Section 5 of this report demonstrates that with the implementation of recommended conditions of consent, the impacts of the development can be mitigated and/or managed to ensure the environment is protected.
5(a)(vii)	The proposal would have no impact on native flora or fauna, including threatened species, populations and ecological communities, and their habitats and is therefore consistent with the principles of ESD (see Section 3.8 below).

3.10 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
 - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
 - (ii) an assessment of the risk-weighted consequences of various options,
- (b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,
- (c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
- (d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:
 - (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

- (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
- (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

As demonstrated by the Department's assessment in Section 5 of this report, the proposal would have no impact on native flora or fauna, including threatened species, populations and ecological communities, and their habitats and is therefore consistent with the principles of ESD.

3.11 Statement of Compliance

In accordance with Section 89H of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4. CONSULTATION AND SUBMISSIONS

The Department exhibited the DA and EIS for the proposal between **Monday 12 December 2011** and **Tuesday 31 January 2012**. During the exhibition period, the Department received **12** submissions on the proposal:

- **6** from public authorities (Penrith City Council (Council), Environment Protection Authority (EPA), WorkCover NSW (WorkCover), Roads and Maritime Services (RMS), Fire & Rescue NSW (FRNSW) and Transgrid); and
- **6** from the general public

A summary of the issues raised in submissions is provided below.

4.1 Public Authorities

Council made no objection to the proposed development, however, requested clarification regarding the relinquishment of existing development consents and additional information on potential impacts (air, access and noise) of the proposed development. Council also noted the BCA applies to the proposal.

The **EPA** made no objection to the proposed development and requested further information regarding the design specification of the proposed bunded areas, fire containment system and stormwater isolation valves. The EPA also requested an operational noise impact assessment be undertaken for the facility.

WorkCover made no objection to the proposed development and recommended a number of conditions of consent relating to the preparation of safety and emergency plans for the facility.

FRNSW made no objection to the proposed development and recommended a Fire Safety Study is undertaken for the facility in accordance with the relevant guidelines and that all fire engineered solutions at the facility meet the requirements of the BCA.

RMS made no objection to the proposed development as it is not likely to result in any greater impact on the classified road network than the previous proposed use for the site (i.e. storage and distribution of non-dangerous goods).

Transgrid made no objection to the proposed development and requested that any work in the vicinity of transmission lines be carried out in accordance with WorkCover's code of practice '*Working Near Over Head Power Lines*'.

4.2 General Public

All 6 submissions from members of the general public objected to the proposal. A summary of the issues raised in public submissions by proportion is provided in Table 5 below.

Table 5: Summary of Issues Raised in Public Submissions by Proportion

Issue	Proportion of Submissions (%)
Hazards and risk	38
Chemical spills/leaks	31
Safety	25
Air pollution	6

An assessment of the key issues raised in submissions has been undertaken in Section 5 of this report.

4.3 Response to Submissions

The Applicant has provided a response to the issues raised in submissions (see Appendix E). This response has been made publicly available on the Department's website.

5. ASSESSMENT

The Department has considered the EIS, the issues raised in submissions, and the Proponent's response to these issues, in its assessment of the proposal. The Department considers the key issue to be the potential hazards and risk.

Given that the proposed development is for a change of use within an existing facility, all other environmental impacts are considered to be minor (see Table 6 below).

5.1 Hazards and Risk

Issue

Due to the proposed storage and handling of dangerous goods (particularly aerosols) in large quantities, the proposal is potentially hazardous, as defined in *State Environmental Planning Policy No. 33 - Hazardous and Offensive Development* (SEPP 33) and a MHF under the *Work Health & Safety Regulation 2011* (WHS Reg).

Consequently, there is a potential for human fatality or injury as a result of accidental fires and explosions as well as damage to property and to the biophysical environment.

Consideration

Hazards and risks are addressed in Part F of the EIS and covered in greater detail in the Preliminary Hazard Analysis (PHA), prepared by Moore Consulting, in Appendix 4. A revised PHA was subsequently submitted with the Applicant's RTS to address some issues raised by the Department concerning the PHA's assessment of potential aerosol fires.

The following matters were addressed in the PHA:

- risk from the proposed facility and cumulative risks (including traffic risks); and
- compliance with the Department's risk criteria.

Risks from the Proposed Facility (Warehouse B1)

The majority of public submissions raised concern about the storage of dangerous goods on the site and the potential hazards and risks associated with this. These submissions raised safety concerns particularly the potential risks to their families from a hazardous incident (e.g. a fire, explosion, chemical leak or spill).

The PHA has estimated risks involving the following scenarios:

- radiant heat from an aerosol fire within the caged aerosol area;
- unreacted product in smoke from an aerosol fire; and
- radiant heat from a general storage area fire.

The Department is satisfied that the PHA has considered all relevant scenarios.

The revised PHA assumed a fully developed aerosol fire, consuming 24,000 aerosol cans per minute, would have a heat radiation level of 4.7 kW (kilowatt)/m² at a distance of approximately 100 metres (m).

In the case of smoke plumes, the calculated maximum distance for irritant effects to be felt was conservatively estimated to be about 200 m.

Calculated radiant heat from a fully developed fire in the general warehouse area was calculated to have a heat radiation level of 4.7 kW/m² at a distance of approximately 15 m.

The calculated overall risk from the proposed development (Warehouse B1) meets the Department's off-site risk criteria for fatality, injury and property damage. Therefore, there is considered to be sufficient separation between the facility and the closest residences which are located approximately 270 m to the west of the site across Mamre Road in Mandalong Close (see Figure 1).

Traffic Risks

No transportation of bulk or large containers of dangerous goods is proposed. As noted above, the aerosol packs do not exceed 1 litre capacity. Consequently, a specific assessment of transport risks was not carried out. The Department is satisfied that transport risks associated with the proposal would be broadly similar to those from the transport of general packaged goods.

Cumulative Risks

The PHA also considered risks from other nearby facilities in the Westpark Industrial Estate. The PHA found that risks from the proposed and existing developments are contained within the Westpark Industrial Estate boundaries, and the Department's risk criteria are met at the boundary. The Department concurs with this conclusion.

Conclusion

The Department is satisfied that the PHA has applied a sound methodology to estimate the risks from the proposal, and demonstrated that it would comply with all risk criteria adopted in NSW for new developments. In addition, as an MHF, the development will be further regulated by WorkCover and subject to strict controls under the *Work Health and Safety Regulation 2011*.

Both WorkCover and Fire and Rescue NSW were also consulted on the proposal and raised no concerns with the proposal. However, both WorkCover and Fire and Rescue NSW recommended conditions for the proposal which the Department has incorporated into the conditions of consent.

In addition, to ensure safe operation throughout the life of the facility, the Department has recommended a number of additional hazards-related conditions of consent which relate to the construction, commissioning and operational phases of the proposal. This includes conditions which require the Applicant to:

- undertake a Fire Safety Study in consultation with Fire and Rescue NSW considering and, if necessary, implementing measures to ensure acceptable fire protection levels at the site/s;
- undertake a Fire Hazards Analysis, Hazard and Operability Study and Construction Safety Study in accordance with the Department's relevant guideline/s;
- develop an Emergency Plan and Safety Management System for the facility;
- submit Pre and Post-Startup Compliance Reports detailing compliance with all conditions required to be satisfied prior to and after operation has commenced; and
- undertake on-going independent Hazard Audits for the facility to ensure safety and compliance with all statutory documents and approvals.

The Department is satisfied that the recommended conditions will ensure that the potential hazard and safety risks associated with the proposal are adequately managed.

5.2 Other Issues

Table 6: Assessment of Other Issues

Issue	Assessment	Recommendation
Noise	- At the EPA's request, the Applicant undertook a noise impact assessment for the operation of the facility. - During operation, the proposal is predicted to comply with the relevant EPA noise criteria for day and night time operations (including sleep disturbance) at all residential receivers. - Therefore, the proposal would not result in any additional noise from the site. - The EPA did not raise any further issues in relation to noise. - Council has previously approved operations at the site from 6am to 10pm, 7 days a week at the site. - The Department is satisfied that any potential noise impacts can be managed and/or mitigated.	The Department has recommended conditions that would require the Applicant to: - comply with the noise limits and hours of operation specified in the consent; and - implement suitable mitigation measures to minimise noise in the event that a non-compliance with the noise limits is identified.
Traffic, Access and Parking	- The proposal would not result in any additional traffic movements to that already assessed by Council. - Further, the proposal would not result in any change to parking, access or internal circulation arrangements. - Council requested that the Applicant demonstrate the proposal would comply with the relevant Australian Standards for heavy vehicle manoeuvrability which was confirmed by the Applicant in their RTS. - Following this, Council raised no further issues in relation to traffic. - RMS advised that the proposal is not likely to result in any greater impact on the classified road network than the previous proposed use for the site. - The assessment of impacts associated with the transportation of dangerous goods is addressed in Section 5.1 of this report. - The Department is satisfied that potential impacts associated with the transportation of dangerous goods has been addressed and can be managed and/or mitigated.	The Department has recommended conditions that would require the Applicant to: - ensure the design of internal roads, driveways and parking comply with the relevant Australian Standards; - ensure heavy vehicle manoeuvrability arrangements comply with AUSTROADS; - ensure vehicles do not queue or park on the public road network; and - ensure all loading and unloading of vehicles is carried out on site.
Water	- The development has the potential to result in pollution of downstream waters, in particular, tributaries of South Creek which are located approximately 130 to 200m west of Building B1 in the adjacent biodiversity area. - A stormwater management scheme was approved by Council for the site and is currently being installed as part of the construction of Building B1. - A minor alteration to this scheme is proposed whereby isolation valves would be installed so that in the event of an emergency or incident (e.g. a spill) contaminated and clean water can be separated to prevent pollution of downstream waters. - The EPA requested further information on the design specification of bunded areas, the firewater containment system and the stormwater isolation valves which was subsequently provided by the Applicant in their RTS. - Following this, the EPA raised no further issues in relation to water. - The Department has recommended conditions of consent to manage incidents including spills (see recommendation). - The Department is satisfied that the potential for water to be polluted from the proposal can be adequately managed and/or mitigated.	The Department has recommended conditions that would require the Applicant to: - ensure all surface water discharges from the site comply with the discharge limits set out the EPL or relevant provisions of the POEO Act; and - store all chemicals, fuels and oils used on-site in appropriately bunded areas in accordance with the requirements of all relevant Australian Standards, and/or EPA guidelines.
Air (including odour)	- As all goods would be pre-packaged off-site and since no processing of dangerous goods would be undertaken at the site, the proposal is not expected to generate any air quality impacts. - Further, any spills, leaks and/or odours are likely to be contained within Building B1 and quickly responded to in accordance with the Emergency Management Plan required for the development as part of the hazard and risks conditions. - The EPA did not raise any issues in relation to air quality. - The Department is satisfied that the air quality impacts of the proposal would be negligible.	The Department has recommended conditions that would require the Applicant to: - not cause or permit the emission of offensive odours from the site, as defined under Section 129 of the POEO Act; - implement all reasonable and feasible measures to minimise odour, fume, dust, energy and greenhouse gas emissions on-site; and - prepare and implement an

Issue	Assessment	Recommendation
		Emergency Management Plan for the development.
<i>Infrastructure Contributions</i>	- Under the WSEA SEPP (2009), a development contribution rate of \$180,000 per net developable hectare must be paid by developers to ensure adequate provision of infrastructure in the WSEA. - Under the WSEA SEPP, the Director-General must be satisfied that satisfactory arrangements are in place. - As part of this process, the Director-General, or his delegate, is required to issue a Satisfactory Arrangement Certificate (see Appendix H). - Generally for projects determined by the Minister or delegate, the Department would condition a requirement for the Applicant to pay the \$180,000 per net developable hectare contribution. - However in certain circumstances, the Director-General can be satisfied that alternate arrangements have been made to meet this requirement. - The Department understands that Council has levied Section 94 contributions as part of the masterplan approval (DA 06/0240) in 2006 for the Westpark Industrial Estate. - Whilst this equates to a development contribution rate of approximately \$99,764 per net developable hectare, the Department considers that it would be unreasonable to request a further levee, given there has already been a requirement to make a contribution and as the proposal seeks a change of use only, in an already approved building. - In this instance, the Department considers that any further request for contribution is unnecessary. - This view is supported by the Executive Director, Strategy and Infrastructure Planning who is the delegate of the Director-General for Satisfactory Arrangements Certificate (Appendix H).	N/A
<i>Waste</i>	- Waste generated on the site will include general industrial waste (including glass, paper, liquids), packing materials in the containers (including foam and cardboard), stretch wrap of the pallets (including sticky tape and plastic) and general waste from the site (including glass, paper and food waste). - The Applicant proposes to dispose of all waste in accordance with relevant guidelines and at an approved/licensed waste disposal facility. - The Department has formalised this commitment into a recommended condition of consent (see recommendation). - No on-site waste treatment facilities would be used. - The EPA did not raise any issues in relation to waste. - The Department is satisfied that the waste impacts of the proposal would be negligible.	The Department has recommended conditions that would require the Applicant to: - implement reasonable and feasible measures to minimise the waste generated by the development; and - ensure all waste generated at the site is classified in accordance with the EPA's <i>Waste Classification Guidelines</i> and disposed of at a facility that may lawfully accept the waste.
<i>Visual</i>	- The development involves the internal fit-out and operation of a building currently under construction and approved by Council. - No changes are proposed to the external facade of the building including the approved landscaping works. - No signage is proposed as part of this application. - The Department is satisfied that the visual impacts of the proposal would be negligible.	N/A
<i>Flora and Fauna and Heritage</i>	- No earthworks or land clearing are proposed. - The development would take place inside an existing building. - The site does not contain any items of Aboriginal or European heritage significance. - Building B1 is separated by the adjacent biodiversity conservation area by an internal driveway and parking. - No activities are proposed to be undertaken in the biodiversity area and all loading and unloading activities would take place on the northern elevation of the building away from this area. - The Department is satisfied that the proposal would not result in any heritage or flora and fauna impacts.	N/A

6. CONCLUSION

The Department has assessed the merits of the development having regard to Section 79C of the EP&A Act, 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 consent, the impacts of the development 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 the Prime's business as it would allow for increased growth, and with it, increase employment opportunities in Western Sydney.

Importantly, the Department also notes that the project would assist with the delivery of NSW 2021, the Metro Plan and the Draft North West Subregional Strategy, as the site is located on designated employment lands in the WSEA, would employ 60 during operation and assist in achieving employment targets for this precinct.

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

7. RECOMMENDATION

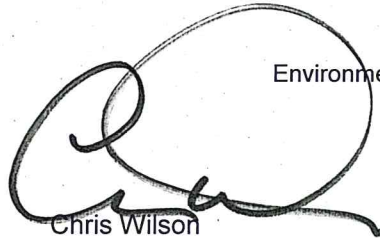
It is recommended that the Executive Director, Major Projects Assessment:

- **consider** all relevant matters prescribed under Section 79C of the EP&A Act, as contained in the findings and recommendations of the assessment report and appended documentation;
- **grant consent** to the development application, subject to conditions, under Section 89E of the EP&A Act, having considered all relevant matters in accordance with the above; and
- **sign** the attached instrument of consent at Appendix A.



Chris Ritchie
Manager - Industry
Major Projects Assessment

21/5/12.



Chris Wilson
Executive Director
Major Projects Assessment

Andrew Hartcher
Environmental Planner, Industry

21.5.12

APPENDIX A – INSTRUMENT OF CONSENT

APPENDIX B – CONSIDERATIONS UNDER SECTION 79C

Section 79C of the EP&A Act requires that the consent authority, when determining a development application, must take into consideration the following matters:

(a) the provisions of: (i) any environmental planning instrument, and (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and (iii) any development control plan, and (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and (v) any coastal zone management plan (within the meaning of the <i>Coastal Protection Act 1979</i>) that apply to the land to which the development application relates,	Detailed consideration of the provisions of all environmental planning instruments (including draft instruments subject of public consultation under this Act) and development control plan/s (DCPs) that apply to the proposed development is provided in Appendix F of this report. It is important to note that while DCPs do not apply to State Significant Development under Clause 11 of the SRD SEPP. Notwithstanding, in determining this application, the Department has considered relevant DCPs in Appendix F of this report. The Applicant has not entered into any planning agreement under section 93F. The Department has undertaken its assessment of the proposed development in accordance all relevant matters as prescribed by the regulations, the findings of which are contained within this report. The site is not located within the coastal zone. Therefore, no coastal zone management plans apply to the proposed development.
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has considered the likely impacts of the development in detail in Section 5 of this report. The Department is satisfied that all environmental impacts can be appropriately managed and mitigated through recommended conditions of consent.
(c) the suitability of the site for the development,	Sections 1 and 3 and Appendix F of this report provide details on the suitability of the site for the proposed development. The site is located in the WSEA, is zoned for industrial purposes and is permissible with development consent.
(d) any submissions made in accordance with this Act or the regulations,	All matters raised in these submissions have been summarised in Section 4.1 of this report and given due consideration as part of the assessment of the proposed development (see Section 5 of this report).
(e) the public interest.	The recommended conditions of consent impose a range of controls, which the Department considers will mitigate any potential environmental impacts of the proposed development.
	The socio-economic benefits generated from the proposal are considerable, with the provision of approximately 60 full-time equivalent jobs operational jobs. The proposal is therefore considered to be in the public's interest.

APPENDIX C – ENVIRONMENTAL IMPACT STATEMENT

See the department's website at www.planning.nsw.gov.au

APPENDIX D – SUBMISSIONS

See the department's website at www.planning.nsw.gov.au

APPENDIX E – APPLICANT’S RESPONSE TO SUBMISSIONS

See the department's website at www.planning.nsw.gov.au

APPENDIX F – CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (State and Regional Development) 2011

The proposal involves the storage of dangerous goods in quantities exceeding the criteria for a Major Hazard Facility, and as such meets the criteria in Clause 10(3) of Schedule 1 in the SRD SEPP.

Consequently, the proposal has been identified as State Significant Development and the Minister for Planning and Infrastructure is the consent authority for the proposed development. The SRD SEPP is discussed in Section 3.1 of this report.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

The subject site is located in the north-west corner of the WSEA in the 'Erskine Park Employment Lands Precinct' (Precinct 7) and as such, the WSEA SEPP applies to the proposed development (see Figure 1). The site is zoned 'IN1 General Industrial' under the WSEA SEPP. 'Hazardous industries' are prohibited within the 'IN1 General Industrial' zone as in most industrial areas throughout NSW.

However, the provisions of SEPP 33 override the WSEA SEPP 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. The Department's Major Hazards Unit has reviewed the proposal and considers that the facility would not pose an unacceptable risk (see Section 5.1 of this report).

Therefore, the proposed development is characterised as a 'warehouse and distribution centre' and is permissible with consent on the subject site. Consequently, under delegated authority of the Minister of Planning and Infrastructure, the Executive Director, Major Projects Assessment, may approve the development.

The proposal is consistent with the intent of the WSEA SEPP by providing employment opportunities on suitably zoned land that has been strategically identified for this purpose by the NSW Government.

The WSEA SEPP also acknowledges that this area is transforming from a semi-rural area into a major zone of employment and economic activity, which would require infrastructure upgrading and amplification over time. The WSEA SEPP creates a consistent zoning system for the existing employment lands and established a development contribution rate of \$180,000 per net developable hectare to ensure adequate provision of infrastructure in the WSEA.

Under the WSEA SEPP (2009), a development contribution rate of \$180,000 per net developable hectare must be paid by developers to ensure adequate provision of infrastructure in the WSEA.

Under this SEPP, the Director-General must be satisfied that satisfactory arrangements are in place for this purpose and is required to issue a 'Satisfactory Arrangements Certificate'.

This Department considers that satisfactory arrangements for the provision of regional infrastructure under previous development consent/s issued by Council. This view is supported by the Executive Director, Strategy and Infrastructure Planning who has issued a Satisfactory Arrangement Certificate for the proposal (as delegate of the Director-General, see Appendix H). The Department's detailed assessment of this issue is provided in Section 5.2 of this report.

Based on the above, the Department is satisfied the proposal is consistent with the aims and objectives of the WSEA SEPP.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

SEPP 33 aims to identify proposed developments with the potential for significant off-site impacts, in terms of risk and/or offence (odour, noise etc). A development is defined as potentially hazardous and/or potentially offensive if, without mitigating measures in place, the development would have a significant risk and/or offence impact on off-site receptors.

The proposed quantities of dangerous goods to be stored at the facility exceed the threshold limits established for SEPP 33.

SEPP 33 requires that a PHA be carried out on a potentially hazardous development to ensure that any hazards are systematically evaluated as part of the overall environmental assessment.

The Department's Major Hazards Unit has reviewed the proposal, the EIS and the PHA prepared by the Applicant and is satisfied that, subject to the full implementation of all safety measures as set out in the EIS and PHA and the Department's recommended conditions of consent, the facility would not pose an unacceptable risk. The Department's detailed assessment of hazards and risk is contained in Section 5.1 of this report.

State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

The proposal satisfies the criteria for traffic generating development under the SEPP pursuant to Clause 104 as it proposes industry with an area over 20,000m². The project was referred to the RMS for comment in accordance with the SEPP and their comments are detailed in Section 4 of this report. The proposal is considered to be consistent with the Infrastructure SEPP given the consultation and consideration of the issues raised by RMS has been undertaken and detailed in Section 5 of this report.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

SREP No. 20 (deemed SEPP) aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The plan applies to all parts of the catchment in the Sydney Region including the Penrith Local Government Area, except for land covered by *State Environmental Planning Policy (Penrith Lakes Scheme) 1989* applies.

The Department has assessed the potential impacts of the proposal (including the potential for pollution of waters) on the natural environment in Section 5 of this report. The Department is satisfied that, subject to the proposal being carried out in accordance with the EIS and implementation of recommended conditions of consent, it will not impact upon the Hawkesbury-Nepean River system and is therefore consistent with SREP No. 20.

Sydney Regional Environmental Plan No. 9 – Extractive Industry (No. 2)

SREP No. 9 (deemed SEPP) aims to manage extractive material resources in an appropriate manner to balance environmental, social and economic values across a number of local government areas, including Penrith.

The proposal will not have a greater impact on natural resources than previously assessed and approved by Council. Further, no extractive or external works are proposed as part of this application.

State Environmental Planning Policy No. 64 – Advertising Structures and Signage

SEPP 64 aims to ensure that any signage that is visible from a public place is compatible with the amenity and visual character of the area, is suitably located and is of high quality.

Signage has been approved by Council under the previous DA (11/0302) for the fit-out and operation of Building B1 as a non-dangerous goods storage facility. No further signage is proposed.

Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney 2036 (Metro Plan) presents a plan for sustainable growth in the Sydney region until 2036. The Metro Plan sets out key aims for employment, housing, infrastructure and service provision. The subject site is located in a key precinct that makes up the Western Sydney Employment Hub, as identified by this plan.

One of the objectives of the plan is to protect and enhance this precinct and the WSEA to facilitate employment growth in Western Sydney.

The proposal is consistent with the goals and priorities of the Metro Plan as the site will provide for new economic activity in Western Sydney and in particular, enhancing development on designated employment lands in the WSEA.

The proposal will also assist in achieving employment targets identified in the Metro Plan for Penrith which require 11,000 new jobs by 2036.

Draft North-West Subregional Strategy

The broad aims of the Metro Plan are to be implemented through ten sub-regional plans, including the Draft North West Subregional Strategy which covers the subject site as it is located in the Penrith local government area.

The Capital Investment Value for this development is \$600,000. The facility would employ up to 60 full-time staff within the warehouse.

The proposal would contribute to the development of Penrith as a Regional City, assist in implementing employment targets identified in the Metro Plan for Penrith and provide employment opportunities on suitably zoned land that has been strategically identified for this purpose by the NSW Government.

Penrith Local Environmental Plan 2010

Penrith Local Environmental Plan 2010 (PLEP 2010) recently commenced and repealed (amongst other instruments) *Penrith Local Environmental Plan 1994 (Erskine Park Employment Area)*.

The provisions of PLEP 2010 do not apply to the site as it is not identified as land to which it applies in the 'land application map' for this instrument.

Interim Development Order No. 93 – Penrith

The Section 149 Certificate received for the site from Council notes that *Interim Development Order No. 93 – Penrith* (IDO93) applies to the site.

Under IDO93, the site is partly zoned 1(a1) Rural. The extent of this zoning within the site is unknown as no mapping could be sourced by the Applicant. Further, no objectives are provided for the 1(a1) zone under IDO93.

As far as can be discerned, the proposal will not be undertaken on any portion of the site that is zoned 1(a1) Rural. No other provision of this instrument applies to the proposal. The Department is therefore satisfied that IDO93 does not apply to the proposed development.

Penrith Local Environmental Plan No. 258 – Consent for Dwelling Houses and Other Development

Penrith Local Environmental Plan No. 258 – Consent for Dwelling Houses and Other Development (PLEP258) only relates to development involving dwellings and development ancillary to dwellings. Therefore, the provisions of this LEP do not apply to the proposed development.

Penrith City Centre Development Control Plan 2006

Penrith Development Control Plan 2006 (PDCP) was adopted on 21 August 2006. Section 6.10 of PDCP applies specifically to the 'Erskine Business Park' within which the site is located. This DCP is the primary DCP governing the proposed development.

Relevant controls applicable to the proposed development include clauses 6.1 (noise pollution), 6.2 (waste management), 6.3 (soil, erosion and sediment control), 6.4 (air pollution), 6.5 (storage, transportation and/or processing of chemical substances), 6.9 (trading and operating hours or premises), 7.2 (car parking) and 8.1 (biodiversity conservation area and landscape buffer).

The Department has considered all relevant provisions of the PDCP in its assessment of the proposal in Section 5 of this report. The Department is satisfied that the proposal is generally consistent with the PDCP.

Penrith Development Control Plan 2007

The provisions of *Penrith City Centre Development Control Plan 2007* does not apply to the proposed development as it is not located in the Penrith City Centre and is not identified in the DCP area map.

Penrith Development Control Plan 2010

Penrith Development Control Plan 2010 (Penrith DCP 2010) applies to land that identified in PLEP 2010 (also known as the City-wide Plan). The subject site is outside this area, therefore the provisions of the Penrith DCP 2010 do not apply to the proposal.

APPENDIX G – DEVELOPMENT CONSENT DA11/0302

APPENDIX H – SATISFACTORY ARRANGEMENTS CERTIFICATE

